

1 UNITED STATES DISTRICT COURT  
2 NORTHEASTERN DISTRICT OF OHIO  
3 EASTERN DIVISION  
4 CASE NO. 1:16-cv-1114

5 KENNETH CHAPMAN, et al., etc.,

6 VIDEOTAPED

7 Plaintiffs,

8 DEPOSITION OF:

9 v.

10 ERIC F. THEISS

11 TRISTAR PRODUCTS, INC.,

12 Defendant.

13 - - - - -

14 TRANSCRIPT of the stenographic notes of  
15 the proceedings in the above-entitled matter, as  
16 taken by and before JANE A. GARBUS, a Certified  
17 Court Reporter, License No. XI01648, of the State of  
18 New Jersey, held at the Sheraton Parsippany Hotel,  
19 199 Smith Road, Parsippany, New Jersey, on  
20 Wednesday, July 5, 2017, commencing at 2:11 p.m.  
21  
22  
23  
24  
25

## 1 A P P E A R A N C E S :

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## 12 A L S O P R E S E N T :

13 DANIEL MCCLUTCHY, VIDEOGRAPHER

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## I N D E X

## EXAMINATION

## PAGE

ERIC F. THEISS

BY MR. EDWARDS

5, 148, 150

BY MR. FECZKO

147, 149, 150

## E X H I B I T S

EXHIBIT NO.

DESCRIPTION

IDENT.

Theiss-1

Screenshot

30

Theiss-2

Power Pressure Cooker

XL Owner's Manual

70

(Exhibits retained by Counsel.)

1 THE VIDEOGRAPHER: Good afternoon. My  
2 name is Dan McClutchy representing Veritext. The  
3 date is July 5, 2017, and the time is approximately  
4 11:25 -- I'm sorry -- 2:11 p.m.

5 Please note that the microphones are  
6 sensitive and can pick up whispering and private  
7 conversations.

8 Please turn off all cell phones or place  
9 them away from the microphones as they can interfere  
10 with the deposition audio.

11 Recording will continue until all parties  
12 agree to go off the record.

13 The caption of this case is Kenneth  
14 Chapman, et al., versus Tristar Products, Inc. This  
15 is taking place before the United States District  
16 Court, Northern District of Ohio, Eastern Division,  
17 Case Number 1:16-cv-1114. The name of the witness  
18 is Eric Theiss.

19 Would counsel at this time please announce  
20 their appearances and the parties they represent,  
21 and then our court reporter, Jane Garbus,  
22 representing Veritext, will swear in the witness and  
23 we can proceed.

24 MR. EDWARDS: Adam Edwards, Greg Coleman  
25 Law, for the plaintiffs.

1 MR. FECZKO: John Feczko for defendant  
2 Tristar Products, Incorporated. We're representing  
3 Mr. Theiss here today.

4 ERIC FRANKLIN THEISS, 583 Whitford Hills Road,  
5 Exton, Pennsylvania 19341, having been duly sworn  
6 according to law, testifies as follows:

7 (A discussion takes place off the record.)

8 Q Mr. Theiss, I already introduced myself,  
9 but my name is Adam Edwards. I'm going to be asking  
10 you a number of questions today.

11 Have you ever given your deposition  
12 before?

13 A No.

14 Q Okay. I'm sure the individual to your  
15 right here has already gone over some of this stuff  
16 with you, but I am going to be asking you a number  
17 of questions about your background, about your use  
18 of the Power Pressure Cooker XL. I will  
19 occasionally ask a confusing question, so if I ask  
20 you something that you don't understand, please just  
21 ask me to rephrase it. My goal is not to trick you.

22 Can we agree to that?

23 A Yeah.

24 Q Okay. Also, keep your answers verbal,  
25 please, yes or no, and as opposed to "ut-huh" or

1 "uh-huh" so we can make a clear record.

2 A Okay.

3 Q Most importantly, if you'll let me get my  
4 entire question out before you give the answer, that  
5 will help us for two reasons: One, it will help the  
6 court reporter make a clear record; and two, it will  
7 help us make sure that we both understand each  
8 other. Okay?

9 A Hum.

10 Q Can we agree to that?

11 A Yes.

12 Q Okay. Have you ever given testimony in  
13 any sort of litigation before?

14 A I have not.

15 Q Okay. Have you ever been asked to serve  
16 as an expert witness?

17 A I have not.

18 Q Okay. Are you being asked to serve as an  
19 expert witness in this case?

20 A No.

21 Q Do you consider yourself an expert in  
22 anything other than, I guess, cooking?

23 A No.

24 Q Okay.

25 A No, no.

1 Q All right. Mr. Feczko is sitting to your  
2 right. Is that correct?

3 A Yes.

4 Q Okay. And you understand that Mr. Feczko  
5 and his firm represent Tristar Products, Inc., in  
6 this litigation that we're here about today?

7 A Yes.

8 Q Okay. Have you retained Mr. Feczko or his  
9 firm to represent you in connection with your  
10 testimony here today and your testimony at trial on  
11 Monday?

12 A No.

13 Q Okay.

14 MR. FECZKO: Well, we will -- we obviously  
15 are acting in the defense of you today as an  
16 independent contractor for Tristar, we'll be having  
17 discussions with him.

18 Q You're not an employee of Tristar?

19 A I am not.

20 Q Okay. And you have not engaged Mr. Feczko  
21 or his firm by virtue of a retainer agreement up to  
22 this point. Correct?

23 A Me, personally?

24 Q Yes.

25 A I have not.

1           Q     Okay. Did you do anything to prepare for  
2 this deposition today?

3           A     Just spoke with my counsel just to  
4 understand what was -- what it was about.

5                   MR. FECZKO: I'll counsel you not to  
6 reveal the substance of any of our discussions. You  
7 can talk about when we met, how long we met, who was  
8 there, but don't reveal any of the substance.

9                   MR. EDWARDS: Okay. So you're going to  
10 instruct him not to answer about any conversations  
11 that you've had because you're taking the position  
12 that although he states you don't represent him, you  
13 do, in fact, represent him.

14                  MR. FECZKO: Well, as I have already  
15 stated on the record --

16                  MR. EDWARDS: Okay.

17                  MR. FECZKO: -- he's an independent  
18 contractor. The attorney-client privilege extends  
19 to him by virtue of that, so yes, I'll be  
20 instructing him not to answer.

21                  MR. EDWARDS: Okay. Well, we can take  
22 that up at a later time.

23                  MR. FECZKO: Happy to do so.

24           Q     So when did you meet with Mr. Feczko in  
25 preparation for this deposition?



1 A Just last week.

2 Q Okay. And have you met with him again  
3 since then?

4 A Just this morning.

5 Q Okay. When you met with him last week,  
6 how long did you meet with him for?

7 A About two hours.

8 Q Okay.

9 A It was on the phone.

10 Q Okay. Have you ever met with Mr. Feczko  
11 or any of the other attorneys representing Tristar  
12 in this case in person, live, until this morning?

13 A No.

14 Q Okay. And you said you talked with  
15 Mr. Feczko for about two hours on the phone.

16 A Um-hum -- yes.

17 Q And that was last week?

18 A Yes.

19 Q Okay. Was anyone else on the phone --

20 MR. FECZKO: Objection. It was actually  
21 Monday. It feels like last week because of the  
22 holiday, but it was actually Monday.

23 THE WITNESS: It was Monday?

24 A It was Monday.

25 Q Okay. Monday of this week?

1 A Yeah.

2 Q Okay. And that was the first time you've  
3 ever spoken to any of the lawyers representing  
4 Tristar?

5 A Yes.

6 Q Okay. Was anyone else on that phone call  
7 other than you and Mr. Feczko?

8 A Yes.

9 Q Who else was?

10 A Two other gentlemen. I don't remember  
11 their names. I'm sorry.

12 Q Okay. Did they speak to you --

13 A They did.

14 Q -- on the phone call?

15 Okay. Were they lawyers?

16 A I believe so.

17 Q But you're not sure?

18 A I didn't ask for credentials on the call.  
19 I just assumed they were lawyers.

20 Q Did they -- did they give you legal  
21 advice?

22 MR. FECZKO: They were both lawyers with  
23 my firm.

24 MR. EDWARDS: Okay.

25 Q Was --

1 MR. FECZKO: I'm happy to tell you who.

2 MR. EDWARDS: Sure.

3 MR. FECZKO: It was John Lewis and Zack  
4 Adams, both attorneys with Tucker Ellis.

5 MR. EDWARDS: Okay.

6 Q So is Monday of this week, I guess that  
7 would have been July the 3rd, is that the first you  
8 heard about giving testimony at the trial in this  
9 matter coming up?

10 A No. I was told that I may need to speak  
11 about the trial maybe two weeks ago.

12 Q Okay. Who told you that?

13 A I'm trying to remember. I think it might  
14 have been Keith Mirchandani.

15 Q Okay. And is he the Tristar CEO?

16 A He is.

17 Q Okay. So Keith called you a couple of  
18 weeks ago and told you that you may need to testify  
19 in this case going to trial?

20 A Yeah. I don't remember the exact  
21 conversation, but he said there was a possibility  
22 that there might be a deposition or a trial or  
23 something like that. I said sure, whatever.

24 Q Okay. So you agreed to testify at the  
25 trial in this matter when Keith called you?

1 A Yeah.

2 Q Okay.

3 A Yes.

4 Q And what did Keith tell you about what you  
5 would be asked to testify about?

6 A He literally told me almost nothing. It  
7 was a two-second conversation on the phone, and he  
8 said that legal would be in touch with me.

9 Q Okay. All right.

10 So he didn't give you any indication at  
11 all about what you might be asked to testify with  
12 regard to?

13 A No. No --

14 Q Okay.

15 A -- he didn't. He said it was a situation.  
16 I don't know his words.

17 Q Sure.

18 A Keith is very fast on the phone.

19 Q Okay.

20 A He said I might need to talk about the  
21 Power Pressure Cooker and am I willing to do that,  
22 and I said sure.

23 Q Okay.

24 MR. FECZKO: You are doing a good job thus  
25 far, but just remember to wait for him to --

1 THE WITNESS: Yeah, okay.

2 MR. EDWARDS: -- finish his question  
3 before you answer.

4 THE WITNESS: Sure.

5 Q Did you ask the CEO of Tristar when he  
6 called you a couple of weeks ago, "Hey, why do you  
7 need me to testify?"

8 A No. He just asked -- he just told me I --  
9 I would -- I might need to talk about the Power  
10 Pressure Cooker.

11 Q Okay.

12 A That's pretty much it in a nutshell.

13 Q Okay. Do you now have -- have you  
14 developed any further understanding as to what  
15 you're going to be asked to testify about on Monday?

16 MR. FECZKO: To the extent that you can  
17 only answer that through your conversations with  
18 legal counsel, I'll instruct you not to answer.

19 Q I'm asking you what your understanding is,  
20 and I'm not asking you to reveal communications with  
21 the -- Mr. Feczko or people from his firm at this  
22 point.

23 MR. FECZKO: Right.

24 Q Okay.

25 MR. FECZKO: And if you only have that

1 understanding based on communications with us, I'm  
2 instructing you not to answer. If you have an  
3 understanding of that based on other conversations  
4 with Keith or something like that, go ahead, but  
5 otherwise --

6 A I don't.

7 Q Okay. So you have no idea sitting here  
8 today what you're going to be testifying about on  
9 Monday.

10 MR. FECZKO: Objection. That is not what  
11 he testified to.

12 Q Independent of what Tristar's lawyers have  
13 told you.

14 MR. FECZKO: Objection. It  
15 mischaracterizes what he said.

16 Q Do you have any understanding of what  
17 you'll be expected to testify about at the trial of  
18 this case on Monday, separate and apart from what  
19 Tristar's lawyers have told you?

20 A I was told by Keith that I might need to  
21 be called to talk about the Power Pressure Cooker.

22 Q Okay.

23 A And my experience with it and that's --  
24 that was it. It was -- it was a two-second  
25 conversation. That's all I know.

1 Q Okay. So you, sitting here today, you  
2 don't know what opinions you're going to give on  
3 Monday. Correct?

4 MR. FECZKO: Objection. Mischaracterizes  
5 his testimony.

6 Q You can answer.

7 MR. FECZKO: If -- if the only way you can  
8 answer that is -- is by revealing the substance of  
9 our communications, I'll instruct you not to answer.

10 MR. EDWARDS: So you're instructing him  
11 not to answer my question where I ask him what his  
12 opinions will be at the trial at Monday.

13 MR. FECZKO: If the only way that he can  
14 answer that is by revealing attorney-client  
15 privilege and attorney work product, then yes, I am.

16 MR. EDWARDS: He can absolutely give me  
17 the information that he knows without revealing what  
18 you claim to be attorney-client privilege.

19 MR. FECZKO: Yes, he can, if you ask him a  
20 proper question. But right now, you're saying,  
21 "Tell me what Tristar's lawyers have talked to you  
22 about" --

23 MR. EDWARDS: I am absolutely not. I'm --

24 Q Separate and apart from conversations  
25 you've had with Tristar's lawyers, do you know what

1 opinions you will be expected to give at the trial  
2 of this case on Monday?

3 MR. FECZKO: Let -- let me -- let me try  
4 and help with something, because I think this will  
5 be a fair compromise. How about I give you broad  
6 topics that we would intend to cover and you can ask  
7 about those topics.

8 MR. EDWARDS: No, I'm not going to do  
9 that. I'm -- I -- the purpose of --

10 MR. FECZKO: Then I'll keep instructing  
11 him not to answer.

12 MR. EDWARDS: That's fine, and we will  
13 take this up with the judge.

14 Q This is a court-ordered deposition, the  
15 purpose of which is for me to discover what opinions  
16 you are going to be giving at the trial in the case,  
17 Mr.-- Mr.--

18 MR. FECZKO: He's going to give factual  
19 testimony, not opinions.

20 Q And if you know what opinions you intend  
21 to give on Monday, I'm entitled to discover those  
22 opinions here today and not be surprised on Monday  
23 for the first time.

24 So I will ask you again: Please tell me  
25 what opinions you expect to give at the trial of



1 this case on Monday.

2       A     I was told by Keith that I might be called  
3 to talk about the Power Pressure Cooker XL and my  
4 experience with it.

5       Q     Okay.

6       A     And that was it.

7       Q     So sitting here today, do you know what  
8 opinions you will be giving at the trial of this  
9 case on Monday?

10      A     All I know is that I will be talking about  
11 the Power Pressure Cooker and my experience with it.

12      Q     Okay. And -- and no further details than  
13 that?

14           MR. FECZKO: I think you're absolutely  
15 entitled to ask him further details than that. I've  
16 offered --

17      Q     Do you know any further details than that?

18           MR. FECZKO: -- to tell you --

19           (A discussion takes place off the record.)

20           MR. EDWARDS: And you need to please keep  
21 your -- if you're objecting, please keep it to the  
22 form. That's part of the Court's order. Right now  
23 you're just kind of talking with me.

24           MR. FECZKO: Well --

25           MR. EDWARDS: And that's not appropriate

1 in a deposition.

2 Q Okay. Let's try to start over.

3 What about the Power Pressure Cooker XL  
4 are you going to talk about at the trial in this  
5 case on Monday?

6 A Whatever questions I'm asked about the  
7 Power Pressure Cooker and my experience with it.

8 Q Okay. Do you have opinions about whether  
9 there's a defect in the Power Pressure Cooker XL?

10 A I do not believe there is a defect in the  
11 Power Pressure Cooker XL.

12 Q Okay. And you -- and you are going to  
13 give that opinion, if asked, on -- at the trial of  
14 this case on Monday?

15 A That's my experience with the Power  
16 Pressure Cooker XL.

17 Q Okay. But you're not an engineer?

18 A I am not.

19 Q You haven't tested the Power Pressure  
20 Cooker XLs, other than using them personally?

21 A Yes, I personally used it.

22 Q And you haven't done any sort of  
23 engineering testing or design testing, anything of  
24 that nature?

25 A No.

1 Q Okay. All right.

2 But you're going to give your opinion that  
3 there is no defect based on your experience using  
4 the cooker and the fact that you haven't experienced  
5 the defect. Is that fair?

6 MR. FECZKO: Object to the form.

7 Q You can answer, unless he specifically  
8 tells you not to --

9 A I'm new at this, so --

10 Q That's okay.

11 A -- I don't know what I'm doing here.

12 Q Yeah, yeah.

13 MR. FECZKO: Do you want the question read  
14 back?

15 THE WITNESS: Yes, please. What was the  
16 question?

17 Q That's okay. I can -- I can ask you the  
18 question again --

19 A All right.

20 Q -- and start over, maybe make it a little  
21 easier.

22 You've told me that you're going to give  
23 the opinion in this case on -- at the trial on  
24 Monday that you believe this cooker doesn't have a  
25 defect. Correct?

1           A     I believe -- yes, I do not believe that  
2 the Power Pressure Cooker XL is defective.

3           Q     Okay. And what is the basis for that  
4 opinion?

5           A     The basis would be just on my personal  
6 use. I've used it probably over a thousand times.

7           Q     You feel comfortable with your estimated  
8 use number of 1,000 times?

9           A     I --

10          Q     Over 1,000 times?

11          A     I think -- I think it's been close to or  
12 more than. Of course I never wrote it down, but  
13 based on the cookbooks that I've written and just  
14 using it on live television for as many times as I  
15 have, I -- I think I'm pretty close.

16          Q     Okay.

17          A     I couldn't prove it.

18          Q     And so outside of the fact that you've  
19 never experienced the defect, is there any other  
20 basis for your opinion that the Power Pressure  
21 Cooker XL doesn't have a defect?

22          A     The only other basis would be just the  
23 amount that I know are out there, and I'm active on  
24 Facebook. I don't -- I feel if there was a major  
25 defect with the product, itself, I think I would

1 probably know about it.

2 Q Okay. So you've told me now two bases  
3 that supports your opinion that the product at issue  
4 does not have a defect. One is you haven't  
5 experienced, and two is you haven't gotten feedback  
6 to that extent through your social media.

7 Anything else?

8 A No.

9 Q Okay.

10 Do you understand what the alleged defect  
11 in this case is, has that been explained to you?

12 MR. FECZKO: If you can answer absent  
13 communications with legal counsel.

14 A No.

15 Q You don't know what the defect is in this  
16 case?

17 A No.

18 Q Okay. But it's your opinion that the  
19 Power Pressure Cooker XL is not defective.

20 A In my opinion, it's not defective.

21 Q Okay. But you don't know what the alleged  
22 defect is in this case; you just told me. Right?

23 A No, that's not what I said. I said I  
24 don't believe the Power Pressure Cooker is defective  
25 based on my use.

1 Q Okay.

2 A That's what I said.

3 Q I'm sorry. Did you not just tell me you  
4 don't know what the alleged defect in this case is?

5 A Defect in general. I don't believe it's  
6 generally defective.

7 Q Okay.

8 A A specific -- if there's a specific defect  
9 you're talking about, I don't believe there is a  
10 defect.

11 Q Okay. Do you --

12 A Or generally, I don't believe there's a  
13 defect.

14 Q Do you understand that the plaintiffs in  
15 this case allege that the Power Pressure Cooker XL  
16 is defective for a specific reason?

17 A Only if you tell me.

18 Q Okay. So you don't know what the basis  
19 for the claim that this Power Pressure Cooker XL is  
20 defective; you don't know what the basis is?

21 A Right.

22 Q Okay.

23 A Yes, I mean. Sorry.

24 Q Where are you employed?

25 A I'm self-employed.

1 Q Okay. Do you have a relationship with  
2 QVC?

3 A Yes.

4 Q An employment relationship?

5 A A contractor-type relationship.

6 Q Okay. Do you have a contractor  
7 relationship with Tristar?

8 A Yes.

9 Q What is the contract that you have with  
10 Tristar?

11 A I have two contracts. Just general TV  
12 sales, pitchman-type contract.

13 Q You are -- you told me earlier you were an  
14 independent contractor. Correct?

15 A Yeah. I'm self-employed, so I contract  
16 out --

17 Q Okay.

18 A -- I guess.

19 Q Are you paid by Tristar?

20 A Yes.

21 Q Okay. Does your salary depend on how well  
22 the products that you endorse sell?

23 A Which products?

24 Q The Power Pressure Cooker XL.

25 A Just say that one more time.

1 Q Yeah.

2 Is -- is your salary or bonuses affected  
3 based on the sales numbers --

4 A Yes.

5 Q -- for the Power Pressure --

6 A Sorry, yes.

7 Q -- Cooker XL.

8 A Yes.

9 Q Okay. So -- so --

10 MR. FECZKO: Remember to wait until he's  
11 done with his question.

12 THE WITNESS: Okay.

13 Q So the more Tristar Power Pressure Cooker  
14 XLs are sold, the more money you can make?

15 A Yes.

16 Q Okay. How is that -- how is it that you  
17 earn or generate income from the sales of the Power  
18 Pressure Cooker XL units?

19 A Which ones?

20 Q Any of them.

21 A They're -- they're different -- under  
22 different contracts.

23 Q Okay.

24 A It's hard to answer that exactly.

25 Q Okay. What are the models that fall under



1 the Power Pressure Cooker XL heading?

2 A Well, there's -- there's three different  
3 models.

4 Q Okay.

5 A The six-quart is under a different  
6 contract.

7 Q Okay. That's the 770?

8 A I don't -- I believe that might be the  
9 model number. I don't know the model numbers. We  
10 talk about it as the six-quart, eight-quart, and  
11 ten-quart --

12 Q Okay.

13 A -- that's how I talk about it.

14 Q Okay.

15 A The six-quart is under a contract  
16 separate, and that was the first one. That's why  
17 the contract is a little bit different.

18 Q Okay.

19 A So I get paid per unit sold at DR.

20 Q What's "at DR" mean?

21 A Direct response TV. So if somebody buys  
22 it off of TV, I get paid.

23 Q Okay. What about if somebody buys it  
24 off -- directly from the Tristar website?

25 A That would be the same thing.

1 Q Okay.

2 A Well, no. That's not -- that's -- can  
3 I -- can I go back to that?

4 Q Sure.

5 A I believe that Tristar sells out of their  
6 own warehouse, not just for DR, so they might ship  
7 out those products to Wal-Mart out of their own  
8 warehouse, so it was -- like a technical glitch.

9 I believe that when somebody calls, when  
10 they see my commercial and they call up, that would  
11 be a DR sale.

12 Q Okay.

13 A So -- but just because it came out of  
14 their warehouse doesn't necessarily mean it's a DR  
15 sale.

16 Q Okay.

17 A Is what I'm trying to say.

18 Q So if I go onto the internet and I see one  
19 of your YouTube videos, and based on that, I go and  
20 I buy a six-quart Power Pressure Cooker XL, do you  
21 receive income from that?

22 A Where did you buy it?

23 Q Directly from Tristar's website.

24 A If it was from Tristar's website, I -- I  
25 would get paid for that.

1 Q Okay. How much do you get paid for a  
2 six-quart unit sale?

3 A It's a half a percentage point of the  
4 selling price of the product.

5 Q Okay. So .5 percent --

6 A .05.

7 Q -- of the -- .05 percent --

8 A A half of one percent.

9 Q Okay.

10 (A discussion takes place off the record.)

11 Q And what about for the eight-quart unit,  
12 how much do you get paid off the sale of each --

13 A It's the same.

14 Q -- of those units?

15 A Sorry. I'll let you finish. Go ahead.

16 Q How much do you get paid off the sale of  
17 each eight-quart unit?

18 A It's the same. The difference is I get  
19 paid not just off of DR.

20 Q Okay. So for those units, would you get  
21 paid if there's a retail purchase?

22 A Yes.

23 Q Okay. So website, TV, even from a retail  
24 store, you get paid a half of one percent --

25 A Correct.

1 Q -- on each sale?

2 A On the selling price.

3 Q Okay. And how about --

4 A That's the selling price to the retailer.

5 Q Okay.

6 A Not to the customer.

7 Q Okay. Is the selling price when a  
8 customer buys from the website or from calling into  
9 a TV ad, is the sales price shown, is that the  
10 retail price that you're paid off of?

11 A No.

12 Q Okay.

13 A If, you know, like any retailer, a  
14 Wal-Mart or whoever, would buy it for, I'm making up  
15 numbers, \$30, and they would sell it for \$99, I  
16 would get paid on the \$30, not the 99.

17 Q Okay.

18 A The retail doesn't matter to me. It's the  
19 selling price, and every retailer has a different  
20 selling price.

21 Q Okay. What about for the ten-quart unit,  
22 are you paid the same way?

23 A It's the same as the eight-quart.

24 Q Okay. By what other methods do you derive  
25 income from the sale of the Power Pressure Cooker XL

1 cookers?

2 A I don't.

3 Q Okay. I -- I notice that you recently  
4 came out with a cookbook that you authored?

5 A Yes.

6 Q Okay. So I'm assuming you make money off  
7 the sale of your cookbook?

8 A I do.

9 Q Okay. And the cookbook contains recipes  
10 designed to be used in the Power Pressure Cooker  
11 XL --

12 A In any pressure cooker.

13 I'm sorry.

14 Q Go ahead.

15 A Any pressure cooker.

16 Q Okay. But the Power Pressure Cooker XL  
17 logo is on the front of your cookbook, isn't it?

18 A It is.

19 Q Okay. So you could see how, in the mind  
20 of consumers, those recipes are designed to be used  
21 along with the Power Pressure Cooker XL. Correct?

22 MR. FECZKO: Object to form.

23 Q You can answer.

24 A Any pressure cooker.

25 Q Okay.

1 MR. EDWARDS: Go ahead mark this as the  
2 first exhibit, please.

3 (A discussion takes place off the record.)

4 (Whereupon, Theiss-1, Screenshot, is  
5 marked for identification.)

6 MR. EDWARDS: I brought copies for you.

7 MR. FECZKO: For your review. Just let me  
8 know when you're ready.

9 THE WITNESS: Okay.

10 Q Okay. It is --

11 MR. FECZKO: You might want to hang on to  
12 that.

13 Q Yeah. This is a -- this is a screenshot  
14 that I found online where it looks like you're  
15 selling your -- your cookbook. Correct?

16 A Yes.

17 Q Okay. And does Exhibit 1 there accurately  
18 represent the front cover of your cookbook?

19 A Yes.

20 Q Okay.

21 A This is the QVC version.

22 Q Okay. And does the cookbook have -- in  
23 fact, say "Power Pressure Cooker XL" in the top left  
24 hand of the cover?

25 A Yes.

1 Q Okay. Are you paying Tristar's lawyers to  
2 represent you in connection with this deposition?

3 You have to answer me. You can't look to  
4 Tristar's lawyer. If you don't know the answer,  
5 just tell me you don't know.

6 A I -- I am not paying any lawyers.

7 Q Okay. Do you know if you're paying  
8 Tristar's lawyers to represent you at the trial in  
9 this matter?

10 A I'm not paying any lawyers.

11 Q Okay. You said that like you're not.  
12 Have you -- I know -- I understand that you may have  
13 not up to this point. Do you intend to pay lawyers  
14 to represent you at the trial in this matter?

15 A Do I need to?

16 Q Well--

17 A I mean, I'm -- I'm -- tell -- I don't  
18 know. Tell me if I need to.

19 Q I can't give you that advice. I'm not  
20 your lawyer.

21 A I have no idea. How can I answer that?

22 Q Okay. So you don't know whether or not  
23 you're going to pay --

24 A I intend not to, but I mean, if there's  
25 something I need to know, maybe you should tell me

1 now.

2 Q Okay. Yeah, that's not the way it works.

3 I don't give you --

4 A I don't know, so I can't answer that.

5 Q Okay. Is anyone compensating you for your  
6 time in testifying here today?

7 A I don't know.

8 Q Okay. You haven't discussed that?

9 A I have not, no.

10 Q You haven't asked?

11 A No.

12 Q Okay. Is anybody compensating you for  
13 your time to appear at the trial in this matter?

14 A I don't know.

15 Q Okay.

16 A I didn't mean to jump in front of you.

17 Q Okay. Tell me about your background as a  
18 chef.

19 A I started cooking in my late teens.  
20 Worked in some restaurants. Did some catering.  
21 Most notably worked at a restaurant with a chef that  
22 I was dying to work with, Frank Falcinelli. Worked  
23 full-time while I was learning how to cook at night.  
24 Going to school.

25 Stayed at that for a while and instead of



1 going to culinary school, I decided I was going to  
2 continue working there at night and doing some  
3 catering. Parlayed that into a restaurant in  
4 West Chester, Pennsylvania. Opened that restaurant.

5 And that's a very brief description of it.

6 Q Okay. Do you have educational training as  
7 a chef?

8 A No.

9 Q Okay. You didn't go to chef school or  
10 cooking school?

11 A I did not.

12 Q Okay. You kind of learned on the job --

13 A I did.

14 Q -- how to cook. Okay.

15 What is your educational background?

16 A I just have a couple of years of college.  
17 I didn't graduate.

18 Q Okay. Where did you go to high school?

19 A John F. Kennedy High School in Iselin, New  
20 Jersey.

21 Q And then where did you go to college?

22 A Middlesex County College.

23 Q And you said you went for how many  
24 semesters?

25 A It was night school, so it was --

1 Q Okay.

2 A I don't know. I have 20 or 30 credits. I  
3 don't know.

4 Q You think maybe 20 or 30 credits?

5 A I don't even know. It's so long ago.

6 Q Okay?

7 A I'm 51. That was a long time ago.

8 Q Okay. No degree earned through night  
9 school?

10 A No.

11 Q Any other education other than the -- the  
12 night school and the high school degree?

13 A Not formal education, no.

14 Q Okay. Just on-the-job training as a chef?

15 A Yes.

16 Q Okay. Are you married?

17 A Yes.

18 Q How many kids?

19 A Two.

20 Q What are their ages?

21 A Twelve and 13.

22 Q I've got one of those myself, a  
23 thirteen-year-old.

24 Boys or girls?

25 A Two boys.

1 Q Okay. Does your -- do you have a Power  
2 Pressure Cooker XL at home?

3 A Yes.

4 Q How many?

5 A I have one on the counter right now.

6 Q Okay.

7 A That's really the only one I'm using at  
8 the moment.

9 Q Okay. Which model is that?

10 A The ten.

11 Q Ten-quart? How long have you had that?

12 A Oh, I -- I honestly don't know. I have  
13 various pressure cookers in my house.

14 Q Okay.

15 A And depending on what I'm working on, I  
16 bring that one up, and sometimes I need a ten,  
17 sometimes I need a six sometimes.

18 Q Okay.

19 A Depends what I'm working on.

20 Q Have you ever had to purchase -- this may  
21 be a dumb question, but have you ever had to  
22 purchase one of the pressure cookers or were they  
23 given to you by Tristar?

24 A I believe, and it was so long ago, I don't  
25 remember, but I believe I did buy one when I first

1 did the infomercial because I wanted to see what the  
2 customer experience in ordering was like.

3 Q Okay.

4 A But I don't remember if I did. I know I  
5 did it on one of the products. I think it was that  
6 one. I may have bought one.

7 Q Okay. One of the early six-quart units?

8 A Yes.

9 Q Okay. Have you ever had any experience  
10 with the other pressure cooker units other than the  
11 Power Pressure Cooker XL that Tristar makes?

12 A Say that again one more time.

13 Q You have --

14 A I'm sorry.

15 Q Let's establish this first: Can you and I  
16 agree that Tristar makes other pressure cookers  
17 other than the Power Pressure Cooker XL units?

18 A Tristar doesn't make the pressure cookers.

19 Q Very good point. They're made in China.  
20 Correct?

21 A I honestly don't know where they source  
22 all of their pressure cookers from. I know that  
23 some come from China. I couldn't answer for the  
24 other ones.

25 Q Okay. Do you know, sitting here today,

1 who designs and manufactures the Power Pressure  
2 Cooker XL units?

3 A I do not.

4 Q Okay. Do you know anything about the  
5 design process for the Power Pressure Cooker units  
6 at issue in this case?

7 A I do not.

8 When they hired me as their spokesperson,  
9 it was already a real product.

10 Q Okay. So you had no input at all in the  
11 design process?

12 A No. What I did have input on, outside of  
13 the six-quart, I did try to get some of the timing  
14 changed on some of the presets --

15 Q Okay.

16 A -- for the ten-quart. Other than that,  
17 no.

18 Q Okay. The ten-quart unit that you have at  
19 your house on your counter today, does your wife use  
20 that cooker?

21 A Yes.

22 Q Okay. Do your -- do either of your boys  
23 use that cooker?

24 A They have.

25 Q Okay.

1 A They're not the best cooks, unfortunately.

2 Q Okay.

3 MR. FECZKO: We won't let them know that  
4 you're --

5 A They just love to eat.

6 Q What -- what's the first time one of your  
7 boys would have used a Tristar Power Pressure  
8 Cooker, if you can recall, approximate year?

9 A That's -- that's a difficult question.  
10 It's -- they have used it.

11 Q Okay.

12 A I couldn't tell you when.

13 Q Do you think they would have used it in  
14 2015?

15 A It's possible. I really don't know the  
16 exact date when they might have pushed a button  
17 or --

18 Q Okay.

19 A -- you know. They're -- they're --  
20 they're with me all the time when I'm making recipes  
21 or coming up with a plan for selling on QVC or  
22 something like that, so --

23 Q Okay.

24 A -- it's --

25 Q Have either your 12-year-old or your

1 13-year-old actually cooked a meal with the Power  
2 Pressure Cooker?

3 A Not a meal --

4 Q Okay.

5 A -- per se, but we do cook --

6 Q Cook a dish, I should have said.

7 A We cook a lot of hard-boiled eggs or  
8 soft-boiled eggs. We use it a lot in the morning  
9 for that.

10 Q Okay.

11 A So they have hit the buttons for that.

12 Q Okay.

13 Have your 12-year-old or your 13-year-old  
14 ever taken the lid off the pressure cooker?

15 A I don't believe so.

16 Q Has your wife?

17 A Yes.

18 Q Okay. Would you allow your 12-year-old or  
19 your 13-year-old to take the lid --

20 A Yeah.

21 Q -- off your pressure cooker?

22 Okay.

23 MR. FECZKO: You're jumping the gun a  
24 little bit.

25 THE WITNESS: I'm sorry.

1 Q You would.

2 A Yes.

3 Q Okay.

4 When did you first start endorsing  
5 consumer products?

6 A Don't hold me to this, but I probably have  
7 been doing it for about 15 years.

8 Q Okay. Do you currently own your own  
9 restaurant?

10 A I do not.

11 Q Okay. Have you owned your own restaurant?

12 A Yes.

13 Q Okay. Is -- maybe there's a better title  
14 that you can come up with. The title that I would  
15 use for you in this situation is celebrity endorser.  
16 Is that correct and accurate?

17 A I don't know that that would be -- it's  
18 one of the things that I do.

19 Q Okay.

20 A So I mean, it's a pretty broad stroke.

21 Q Is it one of the things that you do for  
22 Tristar, act as a celebrity endorser?

23 A Yes, I guess, yeah.

24 Q Okay.

25 A That sounds fair.



1 Q Okay.

2 A I wouldn't disagree with it.

3 Q Okay. So you believe that your first role  
4 as a celebrity endorser of consumer products was  
5 around 15 years ago.

6 A Well, can I clarify that?

7 Q Sure.

8 A I wasn't a celebrity 15 years ago.

9 Q Okay.

10 A I was just a guy with cooking knowledge --

11 Q Okay.

12 A -- and I started selling products on TV.

13 Q Okay.

14 A I don't think that makes me a -- I don't  
15 even know -- that's why I don't even know what makes  
16 you a celebrity --

17 Q Right.

18 A -- endorser. I mean, maybe now I could  
19 be --

20 Q Right.

21 A -- but I certainly was not 15 years ago.

22 Q Okay. So before you got into endorsing  
23 products on TV around 15 years ago, what was your  
24 source of income?

25 A Multiple sources of income.

1 Self-employed. I was a manufacturer's rep. I also  
2 made money going on TV and selling products,  
3 everything from cookware to pressure cookers to  
4 knives, everything in the kitchen.

5 Q Okay.

6 A And food too. I even sold some food.

7 Q Okay. Have you ever owned your own  
8 restaurant?

9 A Yes.

10 Q Okay. When was that?

11 A I want to say '99.

12 Q Okay.

13 A '99, 2000-ish, '98 to 2000. I -- I --  
14 I -- somewhere in there.

15 Q Okay. How long were you a restaurant  
16 owner?

17 A It was a couple of years.

18 Q Okay. And your best guess, I'm not trying  
19 to get specific dates, but your best guess is 1998  
20 to 2000, somewhere in that range?

21 A I would have to get the exact date.  
22 It's -- like I said, it's a long time ago and a lot  
23 of things ago.

24 Q Okay.

25 A Yeah. We started opening in '97, I think.

1 Q Okay.

2 A Maybe opened in '98.

3 Q Okay.

4 A Something like that.

5 Q Okay. What was the name of the  
6 restaurant?

7 A Meritage.

8 Q Meritage. Where was that located?

9 A In the heart of West Chester,  
10 Pennsylvania; in the city.

11 Q Was that a-- what kind of restaurant was  
12 that?

13 A I guess you would call it fine dining.

14 Q Okay.

15 A Bar/restaurant.

16 Q And were you a -- a full-time chef/owner?

17 A Yes.

18 Q Okay. Did you have an ownership interest  
19 with others or was it just you?

20 A Others.

21 Q Okay. How many others?

22 A One.

23 Q Okay. What was his or her name?

24 A Richard Roman.

25 Q And you estimated that that restaurant

1 ownership was about a two-year period?

2 A Yeah. It was about two years.

3 Q Okay. Have you ever owned an interest in  
4 a restaurant other than this?

5 A No.

6 Q Okay. And so after you got out of the  
7 restaurant ownership business, what's the next thing  
8 that you did?

9 A I sold wine to restaurants and liquor  
10 stores, but Pennsylvania is kind of strange.

11 Q Okay.

12 A I sold wine, generally.

13 Q Okay. For -- for a company?

14 A Yes.

15 Q What was the name of the company?

16 A Oh, God. Southern Wine and Spirits. It  
17 was a very short period of time, about six -- four  
18 to six months.

19 Q Okay. What did you do after that for  
20 income?

21 A I started -- I took a job, through a  
22 contact I had from the restaurant, at QVC for a  
23 company called Meyer Corporation. They're the  
24 world's --

25 Q Okay.

1           A     -- largest -- well, one of world's largest  
2 cookware companies.

3           Q     Okay.

4           A     They hired me to help them with their  
5 private brand of cookware that they were selling at  
6 QVC.

7           Q     Okay.

8           A     They hired me to help enhance those  
9 presentations.

10          Q     Okay.

11          A     And to do -- to help with product  
12 development, just all things involved creatively  
13 with a brand of cookware.

14          Q     Okay. And that -- you said that company  
15 was called Meyer?

16          A     They still are, Meyer Corp.

17          Q     Okay. And what was the brand that you  
18 were helping them with?

19          A     Cook's Essentials.

20          Q     Okay.

21          A     That's QVC's private label cookware.

22          Q     Okay. And how long did you do that?

23          A     Up until -- excuse me -- up until this  
24 past December.

25          Q     Okay. December of 2016?

1           A     Yes.  So from 2001, maybe, either 2000 --  
2 I think it was about 2001 to December.

3           Q     Okay.  And why did you stop doing that in  
4 December of 2016?

5           A     The Copper Chef brand that I sell with  
6 Tristar became too much of a presence and --

7           Q     Okay.

8           A     -- there was obviously a conflict.

9           Q     Okay.  So you were selling cookware for  
10 Meyer?

11          A     I wasn't -- well, I'm sorry.

12          Q     No, go ahead.  If you -- if you weren't  
13 selling it, it sounds like you need me to clarify  
14 "selling."

15                 Were you assisting Meyer with selling  
16 cookware up until December of 2016?

17          A     Yes.

18          Q     Okay.  And then you started selling with  
19 Tristar specifically on this Copper Chef cookware  
20 product?

21          A     Well, it was prior to that.

22          Q     Okay.

23          A     But it --

24          Q     When did you start selling the -- or  
25 assisting Tristar with the selling of its Copper

1 Chef cookware products?

2 A I -- oh -- oh, gosh. I'm so bad with  
3 dates, but two years ago?

4 Q Okay. And so that became a conflict of  
5 interest, you were selling for Tristar and also for  
6 Meyer?

7 A Of sorts.

8 Q Okay.

9 A It was of sorts. They were fully aware of  
10 what I was doing, and they were -- we had a very  
11 good understanding of what might happen if -- if  
12 that were to continue in a different direction.

13 Q Okay.

14 A So very amicable.

15 Q So as of right now, what companies do you  
16 assist in terms of marketing their products?

17 A Just Tristar.

18 Q Okay.

19 A On TV.

20 Q All right.

21 So can you and I agree that selling  
22 products for Tristar is your primary source of  
23 income today?

24 A No.

25 Q Okay. What is your primary source of

1 income today?

2 A It's one of the income sources that I  
3 have.

4 Q Okay.

5 A We also have a -- I sell cookbooks in  
6 another company that I have. I also rep. I still  
7 do my manufacturing, manufacturer's rep business.

8 Q Okay.

9 A I rep in some products from China, from  
10 various trading companies.

11 Q Okay. Give me an estimate. Approximately  
12 what percentage of your income in 2016, for example,  
13 would be derived from your work selling products  
14 with Tristar?

15 A I -- I don't honestly have that  
16 information. That -- my business partner handles  
17 our finance.

18 Q Okay.

19 A I honestly don't know the mix of what is  
20 coming in from Tristar and the other things that we  
21 do.

22 Q Is it a large percentage of your income  
23 derived from Tristar?

24 MR. FECZKO: Objection.

25 A Large?



1 Q More than 25 percent?

2 A I really don't know.

3 Q Okay.

4 A Honestly.

5 Q Okay.

6 Approximately how much income did you earn  
7 in 2016?

8 A I would have to look at my -- my income  
9 tax.

10 Q You don't have any idea?

11 A Honestly, I don't.

12 Q Okay. Was it --

13 A I have a lot of stuff going on.

14 Q Was it more than a hundred thousand?

15 A Yes.

16 Q Was it more than 500,000?

17 A I don't know.

18 Q Okay. More than 250?

19 A I really need my -- my income tax in order  
20 to answer a question like that.

21 Q Okay.

22 A I really don't know.

23 Q Okay. So no estimate you can give me  
24 other than it was more than a hundred thousand?

25 A I'll -- I'll stand by the hundred

1 thousand. I need my income tax to get really  
2 specific.

3 Q Sure. And I'm just asking you for a  
4 general estimate, a ballpark estimate.

5 A Yeah.

6 Q Yeah. Can you give me a ballpark estimate  
7 of how much income you made in 2016?

8 A I don't want to. I would rather give you  
9 a regular number. I don't know.

10 Q Okay. Can you list for me all of the  
11 products that you have endorsed, say, over the last  
12 ten years?

13 A No.

14 Q Okay. There's a lot.

15 A Well, there's a reason.

16 Q Okay.

17 A Can I tell you why?

18 Q Sure.

19 A I was endorse -- not endorsing. I sold  
20 for QVC their private label --

21 Q Okay.

22 A -- which was called Prepology. In that  
23 private label, there was a lot of products. There  
24 were a lot of 20-dollar kitchen gadgets over a  
25 course of time. It was a lot.

1 Q Okay.

2 A Not that I brought in necessarily, myself,  
3 but that I sold on TV for QVC --

4 Q Sure.

5 A -- as their spokesperson.

6 Q How many products have you sold for  
7 Tristar?

8 A On television?

9 Q Sure.

10 A I mean, can we just say somewhere between  
11 seven and 11?

12 Q Okay. So I know about the Power Pressure  
13 Cookers. I know about The Copper Chef.

14 A The Copper Chef is more than just one  
15 item.

16 Q It's a line of items.

17 A Yes.

18 Q Cookware. Correct?

19 A Yes.

20 Q Okay. There is an air fryer that you  
21 helped Tristar to sell?

22 A Yes.

23 Q Okay. What else?

24 A The Perfect Cooker, Micro Chef Grill, and  
25 then of course all of the Copper Chef, which there's

1 a few. There's more than five, probably.

2 You only remember the ones that do well.

3 The ones that didn't work, I don't think -- I think  
4 that's about right. I think that's -- that's pretty  
5 much it.

6 Q Were there any Tristar products that  
7 didn't work? You used -- it's your term, not mine.

8 A Didn't work, when I say --

9 MR. FECZKO: Object to the form.

10 Q Yeah.

11 A Let me -- can I clarify "that didn't  
12 work"?

13 Q Yeah.

14 A When I say didn't work, I mean didn't  
15 sell.

16 Q That's -- okay --

17 A Not saying the product didn't work.

18 Q I understand.

19 A Okay.

20 Q Were there Tristar products that you've  
21 sold in the past that didn't sell for whatever  
22 reason?

23 A Yes.

24 Q Okay. What were those?

25 A I don't think the Micro Chef did very

1 well.

2           But as far as didn't sell, it's  
3 subjective. You know, I don't really know how many  
4 Tristar sold --

5       Q     Okay.

6       A     -- off the top of my head.

7       Q     What was the Micro Chef?

8       A     It was a microwave item.

9       Q     Okay. Something that you put in the  
10 microwave to cook in?

11      A     Um-hum.

12      Q     Okay.

13      A     Yes.

14      Q     Okay.

15      A     The Perfect Cooker was a little rice  
16 cooker.

17           The air fryer obviously is an air fryer.  
18 I don't know how to explain that better than that.

19      Q     Okay.

20      A     Then there were the -- obviously, the  
21 Power Pressure Cooker XL, I did two commercials on  
22 that, but that was for three units, three different  
23 units.

24      Q     Okay. Did you have any experience at all  
25 or have you had any experience at all with the

1 PT-WAL1 units that Tristar makes?

2 A If there's a brand, that's how I would  
3 know it.

4 Q Okay.

5 A I don't know their product codes.

6 Q Okay. So you don't -- you're not familiar  
7 with the WAL1 or the tr16?

8 A I don't -- none of that means anything to  
9 me.

10 Q Okay. Have you used any Tristar Power --  
11 have you -- let me start all over.

12 Have you used any Tristar pressure cookers  
13 other than one of the Power Pressure Cooker XL  
14 units?

15 A Yes.

16 Q Okay. What have you used?

17 A I helped Montel Williams sell his pressure  
18 cooker on QVC.

19 Q Okay.

20 A I don't know what model that is.

21 Q But it's a Tristar pressure cooker?

22 A Montel worked for Tristar.

23 Q Okay.

24 A This was years ago before I did the Power  
25 Pressure Cooker XL. I was not paid from Tristar.

1 Q Okay.

2 A I was paid from the rep group at -- excuse  
3 me, the rep group at QVC.

4 Q Okay.

5 A It's kind of third, fourth party, I guess.

6 Q So you assisted with the selling of a  
7 Montel Williams pressure cooker made by Tristar?

8 A On TV, yes.

9 Q On TV, okay.

10 And you -- you don't recall what model of  
11 pressure cooker that was?

12 A No.

13 Q Okay.

14 A I don't know any of the model numbers.

15 Q Do you know what the pressure cooker was  
16 called, what would you have called it on TV?

17 A The Montel Williams pressure cooker.

18 Q That's it, that's all you know about it?

19 A Yeah.

20 Q Okay.

21 A Yeah.

22 Actually, I think it was Living Well by  
23 Montel or something like that.

24 Q Okay. Did that pressure cooker sell well?

25 A It's subjective. I really don't know

1 because I was a third-, fourth-party person in this  
2 situation. And then they hired me to sell it after  
3 Montel decided he -- I don't know if he couldn't  
4 come or what the reasons were. I finished off the  
5 stock for them.

6 Q Have you ever helped to sell any consumer  
7 products that have been recalled?

8 A Yes.

9 Q Okay. Which ones?

10 A There was a microwave grill under the  
11 Prepology brand.

12 Q Prepology is QVC's brand?

13 A Yes.

14 Q Okay. And you sold that product on TV?

15 A I did.

16 Q Okay. And do you know why it was  
17 recalled?

18 A Yes.

19 Q Why?

20 A It arced for some customers in their  
21 microwaves.

22 Q Okay. The --

23 A The arcing -- can I elaborate?

24 Q Yes.

25 A The arcing was due to misuse. If the pan



1 hit the actual interior of the microwave. Does that  
2 make sense? So if you have the pan was spinning and  
3 somebody pushed it all the way to the back and it  
4 stayed here, it turns out that it arced.

5 Q Okay.

6 A If it was put in the middle of the  
7 microwave, it didn't arc, and that's why the company  
8 decided to recall it.

9 Q Explain what you mean by "arced."

10 A Have you ever put something in the  
11 microwave that had a little metal on it, and it --

12 Q Okay. So this is a safety issue, though,  
13 right? If -- if -- in the product that you're  
14 talking about, the microwave product that arced?

15 A They considered it a safety issue.

16 Q Okay. And -- and they recalled it?

17 A The company recalled it.

18 Q Okay. And that was called the Prepology  
19 what?

20 A Micro Grill.

21 Q Micro Grill.

22 Any other products that you have endorsed  
23 that have been recalled?

24 A Not that I know of.

25 Q Okay. Do you take any steps to ensure

1 that the products that you endorse are safe before  
2 you endorse them?

3 A Yes.

4 Q Okay.

5 A I -- I use them myself.

6 Q Okay.

7 A In a lot of cases at QVC, these products  
8 go through labs like Intertek, Veritas, things like  
9 that, for FDA approval, making sure that if it says  
10 it's dishwasher safe, it is indeed dishwasher safe;  
11 making sure that it's -- you know, the paints or the  
12 nonstick coatings are all FDA-compliant. QVC won't  
13 sell it if that's not vetted. They're very --  
14 they're very good about that, very restrictive, more  
15 so than most other retailers, so I know that at  
16 least when that product goes on through QVC that  
17 their quality assurance labs have vetted it.

18 Then, of course, I use it myself. In a  
19 lot of cases I will write a cookbook for it or a  
20 pamphlet, recipes, whatever it might be.

21 I use it in my own home, and there's been  
22 products over the years that I've told them didn't  
23 work, didn't work right, I didn't think the  
24 customers would like them, lots of things like that.

25 Q Okay. I'm asking you now specifically

1 about the Power Pressure Cooker XL models.

2 A Okay.

3 Q Did you do anything personally to ensure  
4 that the pressure cookers were safe before you  
5 endorsed them?

6 A I used the pressure cooker myself several  
7 times --

8 Q Okay.

9 A -- coming up with how I was going to pitch  
10 the product, getting comfortable with my lingo in  
11 how to use it. You need to use it a lot to make  
12 yourself, you know, credible.

13 Q Okay.

14 A You can't just use it once and then go  
15 sell it on television.

16 Q Okay.

17 A So I used it several times, more than  
18 several times before I went on.

19 Q Okay. Anything else?

20 A I -- of course I read the manual. I  
21 talked to Tristar about the nonstick coatings, what  
22 they were. I know that everything Tristar sells  
23 goes through QVC. They have a partnership of sorts,  
24 you know, retailer supplier. I know that these  
25 things are vetted. I've sold pressure cookers

1 before, so I have a very -- pretty good  
2 understanding of how they work and what safety  
3 features they might need. So I mean, it's, you  
4 know, a lot of just from experience.

5 Q What other pressure cookers have you sold?

6 A I sold a microwave pressure cooker.

7 Q Okay.

8 A I sold a pressure cooker under a brand  
9 called Farberware. I don't remember who the vendor  
10 was. It was --

11 Q Okay.

12 A -- a long time ago.

13 Just being at QVC, you know, I'm  
14 surrounded by pressure cookers. They've sold  
15 pressure cookers for years and years and years.

16 Q Okay. Do you have any knowledge of the  
17 CPSC investigation of the Power Pressure Cooker XL  
18 units at issue in this case?

19 A Yes.

20 Q Okay. What's your knowledge of that?

21 A Only that there is one.

22 Q Okay.

23 A And I only found out about that Monday.

24 Q Okay. That the investigation is ongoing  
25 right now?

1 A Yes.

2 Q Okay. Do you know how long the CPSC  
3 investigation has been ongoing?

4 A I don't.

5 Q Okay. And you know nothing else about the  
6 CPSC investigation involving the Power Pressure  
7 Cooker XL units other than it's ongoing right now?

8 A Yes.

9 Q Okay. That's all you know?

10 A That's all I know.

11 Q Okay. Do you know why the Power Pressure  
12 Cooker XL units are being investigated?

13 A No.

14 Q Okay. Do you have any knowledge with  
15 regard to a potential safety issue involving the  
16 lid?

17 A No.

18 MR. EDWARDS: Okay.

19 Do you guys want to take a five-minute  
20 break? I think we've been going for a while. Let's  
21 take a quick break.

22 THE WITNESS: Sure.

23 THE VIDEOGRAPHER: Going off the record.

24 The time is 3:07.

25 (A short break is taken.)

1 THE VIDEOGRAPHER: We are back on the  
2 record. The time is 3:21.

3 Q All right. Mr. Theiss, we're back on the  
4 record, and I just want to follow up on a couple of  
5 notes from your testimony earlier.

6 (A discussion takes place off the record.)

7 Q So I asked you earlier about your  
8 understanding as to the alleged defect involving the  
9 pressure cookers in this case. Do you recall?

10 A The question?

11 Q Yes.

12 A I remember talking about it, yes.

13 Q Okay. Sitting here today, are you able to  
14 give me any information as to your understanding of  
15 what the alleged defect is in the Power Pressure  
16 Cooker XL models?

17 A No.

18 Q I asked you earlier to provide me with the  
19 opinions that you intend to give at the trial in  
20 this case. Do you recall that?

21 A Yes.

22 Q Okay. And you told me one of the opinions  
23 that you were going to give is that the Power  
24 Pressure Cooker XL units are not defective.  
25 Correct?

1           A       In my opinion they are not defective.

2           Q       Okay.  What other opinions do you intend  
3 to give at the trial of this matter?

4           A       I don't --

5                   MR. FECZKO:  Object to form.

6                   THE WITNESS:  I don't know what else I'm  
7 going to be asked.

8           Q       Okay.  Do you have any opinions as to the  
9 value of the Power Pressure Cooker XL units at  
10 issue?

11          A       Can you describe that?  What do you mean  
12 by "value"?  Like monetary value?

13          Q       Yes.

14          A       You mean how much they cost?

15          Q       Let me ask it this way:  You understand  
16 that there's allegations that these Power Pressure  
17 Cooker XL units are defective in their design.  Do  
18 you understand that?

19          A       Only now.

20          Q       Okay.

21          A       Because you keep telling me.

22          Q       Okay.  So before I just told you that  
23 this -- that there's allegations in this case that  
24 the Power Pressure Cooker XL units were defectively  
25 designed, you didn't know that?

1 A No.

2 Q Okay. Sitting here today, do you have any  
3 opinions as to whether the Power Pressure Cooker  
4 units at issue would have any value to consumers,  
5 assuming they are proven to be defective?

6 MR. FECZKO: Objection to form.

7 A I don't understand the question.

8 MR. FECZKO: Let me just get my objection.

9 Objection to form and improper  
10 hypothetical.

11 Q You can answer, if you can.

12 A I didn't understand your question.

13 Q Okay. Assume for a second, and I  
14 understand -- I want you to assume hypothetically  
15 that the evidence in this case is that these Power  
16 Pressure Cooker XL units have a design defect which  
17 makes them unsafe to use. Okay? And I know you  
18 disagree with that. But assuming that's the case,  
19 do you have any opinion as to whether the units  
20 would have any value if that were the case?

21 MR. FECZKO: Object to form. Same  
22 objections.

23 A I have no opinion on that at all.

24 Q Okay. Do you know how many Power Pressure  
25 Cooker XL units have been sold in the United States?



1 A Which one? Or just in general?

2 Q I'm talking about all of the Power  
3 Pressure Cooker XL units; the six-quart, eight-quart  
4 and ten-quart.

5 A I don't. I do know it's in the millions.  
6 Like, I don't have an exact number.

7 Q Okay.

8 A And I only know millions because I can say  
9 that.

10 Q Okay. By "millions," you mean is it safe  
11 to say that over 2 million units have been sold?

12 A I would think that it's over 2 million.

13 Q Okay.

14 A I don't know the exact number.

15 Q I understand. Your best estimate is over  
16 2 million.

17 A Yeah.

18 Q Okay.

19 A I would think so, of all three of them.

20 Q Okay. Have you actually assembled the --  
21 a Power Pressure Cooker XL unit yourself?

22 MR. FECZKO: Object to form.

23 Q I'm talking about putting it together as  
24 it comes in the box?

25 MR. FECZKO: Object to the form.

1           A     I mean, I've taken plenty of power  
2 pressure cookers out of the box and used them.

3           Q     Okay.

4           A     I --

5           Q     Yeah. What steps do you take before you  
6 use them when you take them out of the box?

7           A     I use a lot of them, so I take them out of  
8 the box, wash the unit, you know, where the food  
9 might touch.

10          Q     Okay.

11          A     And then I use it.

12          Q     Okay.

13          A     You know, the lid goes on, and it's --  
14 there's really not much assembly.

15          Q     Okay. Have you ever used a Power Pressure  
16 Cooker in a restaurant setting?

17          A     No.

18          Q     Okay. Could a Power Pressure Cooker be  
19 appropriately used in a restaurant setting?

20          A     I don't believe so because it's not -- I  
21 don't believe it's approved for restaurant use.

22          Q     Okay.

23          A     It's a home-use product.

24          Q     Gotcha.

25          A     It would work in a restaurant, but I don't

1 think you should --

2 Q Okay.

3 A You know.

4 Q Fair enough.

5 Have you ever cooked applesauce in the  
6 Power Pressure Cooker XL?

7 A I don't believe -- I do not think I have,  
8 no.

9 Q Okay. Have you ever cooked with  
10 cranberries in the Power Pressure Cooker XL?

11 A Fresh cranberries? I may have had a  
12 stuffing with some cranberries in it.

13 Q Okay.

14 A Again, I -- so many --

15 Q Okay.

16 A I don't -- I don't think so, but I'm not  
17 sure.

18 Q Have you ever cooked with oatmeal in a  
19 Power Pressure Cooker?

20 A No.

21 Q Okay.

22 A I don't think I've ever made oatmeal in  
23 there.

24 Q Ever used a recipe that had split peas in  
25 the Power Pressure Cooker?

1           A     I believe there's been a recipe with peas.  
2 Whether they were specifically split peas, I can't  
3 answer that. I don't remember.

4           Q     Okay. Have you ever cooked with noodles  
5 or pasta --

6           A     Yeah.

7           Q     -- of any kind?

8           A     Yes.

9           Q     Many times?

10          A     Sorry. I jumped it.

11          Q     Yeah. Many times?

12          A     I don't know what "many times" is, but  
13 yes.

14          Q     Okay. More than a dozen?

15          A     Yes.

16          Q     Okay. Have you ever cooked with macaroni  
17 noodles in the Power Pressure Cooker?

18          A     There's so many different kinds of  
19 noodles.

20          Q     Okay.

21          A     I've cooked with noodles. There's -- you  
22 know, penne to -- I don't think I've ever done  
23 spaghetti, but there's so many different kinds of  
24 noodles. "Macaroni" is a general term.

25          Q     Okay. Are you aware that according to

1 Tristar, cooking with commonly-used foods such as  
2 these can clog the pressure release valve?

3 MR. FECZKO: Object to the form.

4 A There is a section in the manual that I  
5 know there are things that they say you shouldn't  
6 use because it could clog.

7 Q Okay.

8 A I've cooked a lot of pasta, and I've never  
9 experienced a clog.

10 Q Okay. Do you disagree with the  
11 representation in the owner's manual that cooking  
12 with -- with the foods I just mentioned can cause  
13 clogging of the pressure release valve?

14 A In my experience from cooking pasta, I  
15 have not had those clogged. I don't remember. I  
16 don't recall ever cooking the other things that you  
17 mentioned --

18 Q Okay.

19 A -- split pea, specifically.

20 Oatmeal, I definitely have not, that I can  
21 remember. So I don't know whether I agree or  
22 disagree based on my experience. I haven't done it,  
23 so I don't know. They put it --

24 Q Okay.

25 A -- in the manual, you shouldn't do it.

1           Q     Okay. Can you and I agree that, according  
2 to the language in the owner's manual, Tristar  
3 contemplates that there are occasions when the --  
4 the steam pressure release valve could get clogged?

5           MR. FECZKO: Object to form and  
6 foundation.

7           MR. EDWARDS: Why don't we go ahead and  
8 mark the owner's manual as the next exhibit.

9           (A discussion takes place off the record.)

10          (Whereupon, Theiss-2, Power Pressure  
11 Cooker XL Owner's Manual, is marked for  
12 identification.)

13          Q     If you would, Mr. Theiss, turn to what's  
14 marked as page one of the owner's manual. First let  
15 me just ask you, does this appear to be the owner's  
16 manual that would come with the Power Pressure  
17 Cooker XL?

18          A     Yeah, it looks like a version of it.

19          Q     Okay. Do you see page one, "Important  
20 Safeguards"?

21          A     It's small, yeah.

22          Q     Okay. At the bottom left, it states --  
23 why don't you -- why don't you read it out loud,  
24 please? The last paragraph on the bottom left of  
25 page one of the owner's manual.

1           A       The "Be" -- the one that starts with "Be  
2 aware"?

3           Q       Yes.

4           A       "Be aware that certain foods such as  
5 applesauce, cranberries, pearl barley, oatmeal or  
6 other cereals, split peas, noodles, macaroni,  
7 rhubarb... spaghetti, can foam, froth, sputter or  
8 clog the pressure release device (steam vent).  
9 Recipes using these... must be followed carefully to  
10 avoid problems."

11          Q       Actually it says "foam, froth, sputter and  
12 clog the pressure --

13          A       All right.

14          Q       -- release device." Correct?

15          A       I didn't bring my glasses, yes.

16          Q       Okay.

17          A       "Clog the pressure release device steam  
18 vent" in parenthesis. "Recipes using these items  
19 must be followed carefully to avoid problems."

20          Q       Based on that language you just read, can  
21 you and I agree that Tristar contemplates situations  
22 where the steam pressure release device may get  
23 clogged?

24                   MR. FECZKO: Object to form and  
25 foundation.

1 THE WITNESS: I forget what that means.

2 Do I not answer?

3 Q If -- no.

4 MR. FECZKO: If it's an objection, unless  
5 I instruct you not to answer, you have to answer.

6 THE WITNESS: Okay.

7 MR. FECZKO: It's only when I instruct --

8 A One more time. I'm sorry.

9 Q Sure.

10 Can you agree, based on the language you  
11 just read from the owner's manual, that Tristar  
12 contemplates situations in which the pressure  
13 release device or steam vent may get clogged?

14 MR. FECZKO: Same objection.

15 A May get clogged, sure, yes.

16 Q Okay.

17 A I think that that's a standard -- I think  
18 that's pretty much standard speak in the manuals  
19 that I've seen for other pressure cookers as well.

20 Q Sure.

21 And if the steam vent is clogged, that  
22 could give users the impression that the unit has  
23 completed venting the pressure before it actually is  
24 done venting the pressure. Can you and I agree to  
25 that?



1 MR. FECZKO: Object to form.

2 A No. I'm not sure I understand what you  
3 said.

4 Q If the -- if -- if the steam vent is  
5 clogged, the steam could stop coming out but while  
6 there's still pressure in the unit. Correct?

7 MR. FECZKO: Object to the form.

8 A If the steam vent got clogged, the unit  
9 would overheat; and when the unit overheats, it  
10 turns itself off.

11 Q Okay. I'm talking about a situation where  
12 the user goes to start venting steam. Okay?

13 A Okay.

14 Q From the valve. And if that valve gets  
15 clogged, that could give the -- the user the  
16 impression that the unit is done with the venting  
17 process before it's actually done. Isn't that  
18 correct?

19 MR. FECZKO: Object to the form.

20 A I've never experienced that, so I don't  
21 know.

22 Q Okay.

23 A The overheat safety valve, that safety  
24 feature, is part and parcel to clogging of the  
25 valve. It's one of the -- one of the primary

1 safeguards --

2 Q Okay.

3 A -- to turn the machine off because it  
4 would overheat.

5 Q Okay. How do you use the pressure release  
6 valve to release steam when you've using it using  
7 the Power Pressure Cooker XL?

8 A I turn it to the geyser icon.

9 Q Okay. With your --

10 A It looks like steam.

11 Q With your bare hand?

12 A Yeah. You take a little and just turn it  
13 that way.

14 Q Okay. Just want to be clear. You use  
15 your bare hand as opposed to using a tool to do  
16 that?

17 A I use my hand.

18 Q Okay. Have you ever used the Power  
19 Pressure Cooker XL outdoors?

20 A No, I don't believe so.

21 Q What do you do with regard to the float  
22 valve before each time you use the Power Pressure  
23 Cooker XL, if you do anything at all?

24 MR. FECZKO: Object to the form.

25 A Whenever I use it, I make sure the plate's

1 on and the gasket's on and that the valve moves.

2 That's really -- that's it.

3 Q Okay. You don't do anything else with  
4 regard to the float valve before you use the  
5 pressure cooker each time?

6 A I don't.

7 Q Okay.

8 A Other than making sure it -- it's  
9 free-moving.

10 Q Okay.

11 A I do, because as soon as I put the lid on,  
12 I turn the pressure valve to open or close depending  
13 on what I'm doing.

14 Q Have you ever cooked in a pressure cooker  
15 where the -- the contents of the inside exceeded the  
16 fill line?

17 A A pressure cooker or my Power Pressure  
18 Cooker?

19 Q Your Power Pressure Cooker XL.

20 A I do not overfill the pressure cooker when  
21 I use it personally.

22 Q Why is that?

23 A Well, there's a fill line there for a  
24 reason.

25 Q Okay.

1           A     And if I -- if you put it over the fill  
2 line, then you're misusing it because --

3           Q     Okay.

4           A     -- there's a reason it's there.

5           Q     Could it be a safety issue if you fill the  
6 Power Pressure Cooker XL above the fill line?

7           A     I don't think you should fill the Power  
8 Pressure Cooker over the fill line because I don't  
9 really think it would come up to pressure if there  
10 was no room for pressure.

11          Q     Okay.

12          A     Again, I'm not an engineer, so I --

13          Q     Could it cause clogging?

14          A     I -- I -- I -- could it cause -- yeah, I  
15 guess, sure.

16          Q     Okay.

17          A     Yeah.

18          Q     Have you read that somewhere?

19          A     If -- there's a fill line there for a  
20 reason because you need to put the lid on and turn  
21 it, and you need some space for pressure.

22          Q     Okay.

23          A     So the -- you shouldn't overfill it.

24          Q     Okay. But you don't recall whether you've  
25 read that about the clogging and overfilling?

1           A     I think it's an assumption. I don't know  
2 if I've read it.

3           Q     Okay. Going back to Exhibit 2, the fourth  
4 bullet point from the bottom indicates, "Do not use  
5 appliance for anything other than its intended use."

6                     Do you see that?

7           A     Yes.

8           Q     Can you and I agree that the intended use  
9 for this pressure cooker is to cook food under  
10 pressure?

11          A     No. You can also use it as a slow cooker.  
12 You can also use it as a stockpot, and you can also  
13 warm things up in it.

14          Q     Okay. What -- is the -- is the primary  
15 intended use of a pressure cooker to cook food under  
16 pressure?

17          A     I think with the Power Pressure Cooker XL,  
18 that would be the primary function.

19          Q     Okay. Okay.

20          A     But it does have other functions --

21          Q     Sure.

22          A     -- to be clear.

23          Q     So the primary intended use of the Power  
24 Pressure Cooker XL is to cook food under pressure.

25          A     I think because of the name, yeah.

1 Q Okay. Sorry. That may be an obvious  
2 question.

3 A No, that's all right.

4 Q Okay. And you want consumers to be able  
5 to do that safely, can we agree to that, cook food  
6 under pressure safely?

7 MR. FECZKO: Object to form.

8 A I think people should cook safely no  
9 matter what appliance they're using, even a  
10 stockpot.

11 Q I understand that, but I'm talking about  
12 the device, itself. Can you and I agree that the  
13 primary intended purpose is to safely cook food  
14 under pressure of the Power Pressure Cooker XL?

15 MR. FECZKO: Object to the form.

16 A That's an assumption I would make, yeah.

17 Q Okay.

18 A I mean, things -- yeah.

19 Q Right.

20 A Yeah.

21 Q Because if you can't use a product safely,  
22 it -- it has no value. Is that correct?

23 MR. FECZKO: Object to the form.

24 Foundation.

25 A No, I don't believe that to be true.

1 Q So a --

2 A If you -- if somebody uses a stockpot and  
3 it boils over, that could short out their stovetop  
4 and cause a problem, does that mean they didn't -- I  
5 mean, it's -- what do you mean "has no value"?

6 Q Sure.

7 Are you going to be able to -- to sell a  
8 pressure cooker that is -- that the public knows to  
9 be dangerously defective?

10 MR. FECZKO: Object to form.

11 A That seems like a subjective thing.  
12 There's really no answer to that.

13 Q Sure.

14 Are you going to have a difficult time  
15 selling a pressure cooker that the public knows to  
16 be dangerously defective?

17 MR. FECZKO: Object to the form. Improper  
18 hypothetical.

19 A I'm not in that situation. I don't even  
20 want to answer the question.

21 Q Well, I understand you don't want to  
22 answer it, but I --

23 A Well, maybe don't turn my words around.  
24 What I mean is that's kind of a strange question.

25 Q Sure.

1           A       We would assume that products are to be  
2 used as intended and are safe if used as intended.  
3 I -- I don't --

4           Q       I -- I understand that's -- that's your  
5 assumption. What I'm asking you is you're in --  
6 you're in the business of helping companies like  
7 Tristar sell products. Correct?

8           A       It's one of the things I do.

9           Q       Okay. And one of the things you  
10 emphasize, because I've seen your infomercials and  
11 your TV spots, one of the things you emphasize is  
12 that this product is safe. Correct?

13          A       That's one of the things I emphasize, but  
14 I also emphasize that it is a game-changer in your  
15 kitchen.

16          Q       Yeah.

17          A       People get a lot of value out of the  
18 pressure cooker because they can cook meals quickly  
19 for their family. I've cooked -- I've used it a  
20 thousand times. So to say that it has no value  
21 because you're saying that hypothetically it might  
22 be unsafe seems odd to me.

23          Q       I'm not. I'm asking you to assume that  
24 the evidence in this case establishes that the  
25 product is unsafe because it has a design defect.



1 Assuming that to be the case -- and I know you  
2 disagree -- that's going to be a difficult product  
3 for you to sell, isn't it?

4 A It --

5 MR. FECZKO: Object to the form.

6 THE WITNESS: It would be hard for me to  
7 assume that --

8 Q Right.

9 A -- based on that probably a thousand times  
10 that I personally have used it. My friends, my  
11 family, my mother.

12 Q Right.

13 A I don't believe the product is defective,  
14 based on that.

15 Q Okay. Assume --

16 A So it's hard to assume that. I'm sorry.

17 Q Right, right.

18 A You can --

19 Q I understand.

20 A I know you're going to ask me a hundred  
21 times to try to get me to say that.

22 Q Yeah.

23 A But I think it's an unfair question for me  
24 to say -- to assume something that's not true.

25 Q Okay. I understand you have already

1 concluded, based on your use and your friends' use  
2 of this product, that it is free from defect.

3 Correct?

4       A     I think it's safe for me to assume based  
5 on my experience with the Power Pressure Cooker that  
6 it is not a defective product.

7       Q     Right. All right.

8       A     And it does provide a lot of value to  
9 people that use it.

10      Q     Sure.

11      A     I absolutely feel that to be true.

12      Q     Okay. But now I want you to assume that  
13 the evidence in this case is that it is defective  
14 and unsafe. If it is established that this pressure  
15 cooker, despite your assumptions, was defectively  
16 designed and is unsafe, that's going to be a  
17 difficult unit for you to sell if the public knows  
18 that.

19           MR. FECZKO: Objection. Asked and  
20 answered.

21      Q     Would you agree?

22      A     I mean, I guess we're going to go around  
23 on this.

24      Q     Yeah.

25      A     And I don't mean to be rude --

1 Q Yeah.

2 A -- but I'm telling you, based on my --  
3 based on my opinion, on my use, my over thousand or  
4 more times that I've used this product --

5 Q Right.

6 A -- my family, my friends, my mother, my  
7 friends' children, I do not believe the product is  
8 unsafe.

9 Q Okay.

10 Let's get away from the Power Pressure  
11 Cooker XL, because I understand you're -- you're  
12 just not going to make that assumption about it  
13 being defective.

14 A How can I assume that?

15 Q Let's talk about -- let's talk about --

16 A It's not true.

17 Q -- any consumer device. Okay?

18 Is it -- can you and I at least agree  
19 anything that you're selling on TV, if the consumer  
20 has knowledge that that product, whatever it might  
21 be, is defective and unsafe, that's a more difficult  
22 product to sell; can we agree to that?

23 MR. FECZKO: Object to form.

24 A If I knew the product was unsafe, I  
25 wouldn't sell it.

1 Q Okay. That's -- and probably no one would  
2 buy it if they knew the product was unsafe.

3 Correct?

4 MR. FECZKO: Object to form.

5 A It's a strange question.

6 Q Sure. I'm asking a pretty simple  
7 question. We can call it a "widget" if you'd like.

8 A Well, I mean, people take -- people take  
9 drugs, and you watch the commercial and they tell  
10 you you could die from a thousand things, they still  
11 take it.

12 Q Yeah.

13 A So does that mean that if somebody knew  
14 that a pressure cooker could have a problem or an  
15 electric grill could have a problem that they  
16 wouldn't still buy it? I don't believe that to be  
17 true.

18 Q All right. So you -- you would not have a  
19 more difficult time selling a product that the  
20 public knew to be dangerously defective?

21 A I wouldn't. If I knew ahead of time --

22 Q Right.

23 A -- I wouldn't sell it. I've turned down  
24 products before.

25 Q I understand that. But I'm asking you a

1 very general question. If --

2 A That's why it's difficult to answer it.

3 Q Yeah. Are you -- in general, you sell  
4 product -- you help companies sell products for a  
5 living. Right?

6 A Yes.

7 Q And with this Power Pressure Cooker XL,  
8 you emphasize the safety features of this product.  
9 Correct?

10 A Yes.

11 Q Okay. And I'm assuming one of the reasons  
12 why you emphasize the safety features is because it  
13 helps you to sell more products if consumers believe  
14 that it's safe.

15 A No.

16 Q No, that's not why you --

17 A No, no. That would be saying that --

18 Q -- tell the public it's safe, to sell  
19 more --

20 MR. FECZKO: Hold on. Hold on. Hold on.

21 Q You need to let me finish. You need to  
22 let me finish.

23 A I'm sorry. I'm sorry.

24 Q Can't you and I agree that the reason why  
25 you tell the public that the product is loaded with

1 safety features is so you can sell more pressure  
2 cookers?

3 MR. FECZKO: Objection. Argumentative.

4 Q Isn't that the reason why you say that in  
5 your TV spots?

6 MR. FECZKO: Same objection.

7 A That is one of the reasons, of course.

8 The other reason is that I want people to  
9 feel comfortable knowing that the product does have  
10 the appropriate safety features.

11 Q Okay.

12 A I'm not just about making money.

13 Q Right.

14 A Customers need to be comfortable with the  
15 use of these electric appliances, and from my  
16 experience, the safety features on the Power  
17 Pressure Cooker are where they need to be. They're  
18 very good.

19 Q All right.

20 A I'm not lying that the product is safe.  
21 It's my experience that it is safe.

22 Q And -- and I'm -- and I'm not -- I'm not  
23 asking you about whether you're lying. I'm simply  
24 asking you --

25 A No. You said the only reason I would tell

1 somebody it was safe was to sell products. That's  
2 not the only reason I would sell -- tell somebody  
3 that it's safe.

4 Q Okay.

5 A I mean, my mother has one of these.

6 Q Got it.

7 A If I didn't think it was safe, my mother  
8 wouldn't cook with it, and I wouldn't have my kids  
9 filming me with Facebook.

10 Q Got it.

11 But you don't know what the alleged defect  
12 in this case is. Right?

13 A I don't, because I don't think it's  
14 defective, so I'm sure eventually you're going to  
15 try to tell me, and then I don't know. But right  
16 now --

17 Q No. You've concluded -- you've concluded  
18 that it's not --

19 A I think --

20 Q -- defective.

21 A -- I've used it more than anybody else on  
22 the planet --

23 Q Right.

24 A -- and I've not experienced a defect.

25 Q Right.

1           A       -- with the Power Pressure Cooker, myself.

2           Q       So it must not be defective. Right?

3           A       In my opinion and my use, it is not.

4           Q       Okay.

5           A       I don't just have one. I didn't just use  
6 one Power Pressure Cooker. I've used hundreds.

7           Q       I guess -- I guess my question is if --  
8 you have a -- you have a vested interest in -- in  
9 selling these pressure cookers. Can we agree to  
10 that?

11          A       Yes.

12          Q       Okay. You have a financial interest.  
13 Correct?

14          A       Yes.

15          Q       Okay. You have a personal interest.  
16 Correct?

17          A       Yes.

18          Q       Okay. Why haven't you asked somebody,  
19 "Hey, why are they saying the pressure cooker is  
20 defective?" Don't you want to know?

21          A       I only heard about this on Monday.

22          Q       Okay. All right. All right.

23          A       And if you drove a car every day and you  
24 had your kids in it, I mean, it's ridiculous for you  
25 to sit here and tell me that I would not sell the



1 Power Pressure Cooker if I knew it was defective  
2 because I didn't know it was defective, and I've  
3 used it over a thousand times, and it's not  
4 defective.

5 Q Okay.

6 A I have friends and family that use this  
7 product, so it would be irresponsible of me if I  
8 knew that the Power Pressure Cooker had a fatal flaw  
9 in it or something, it certainly hasn't surfaced  
10 with my use or my friends or my family.

11 Q Right. In fact --

12 A Or the people on Facebook and beyond.

13 Q You -- you feel that the product is so  
14 safe you let your children use it. You told me  
15 earlier. Correct?

16 A They're in the same room with me --

17 Q Okay.

18 A -- almost every time. We have dinner with  
19 that several times a month.

20 Q And you actually let your children operate  
21 the unit. Correct?

22 A They've pressed the buttons, yes.

23 Q Okay.

24 A I think it's appropriate for a 13-year-old  
25 to -- 12-year-olds to cook.

1 Q Okay.

2 A They have their own show. It's called  
3 Master Chef Kids or something, I mean.

4 Q Your kids -- your kids do?

5 A No. Kids can cook in general. I don't  
6 think it's a problem with children cooking.

7 Q Okay. When you are preparing your TV ads,  
8 who gives you the bullet points for the content of  
9 those ads?

10 MR. FECZKO: Object to form.

11 Q And I'm talking about the ads for the  
12 Power Pressure Cooker XL.

13 MR. FECZKO: Object to form.

14 A You mean the commercials?

15 Q Yeah.

16 A It comes from a myriad of creative  
17 sources.

18 Q Okay. I mean, does Tristar approve the  
19 content before you go on TV about their products?

20 A Yes.

21 Q Okay.

22 A I'm talking about the infomercials.

23 Q Yes. What about your YouTube videos?

24 A No.

25 Q Nobody approves those, the content of your

1 YouTube videos before you publish them?

2 A No.

3 Q Okay.

4 A Now, there's two different kinds of  
5 YouTube videos, to be clear. I've done YouTube  
6 videos for Tristar in their studios.

7 Q Okay.

8 A And then I've done a few in my own home.  
9 The ones that were done in my own home were totally  
10 unscripted and out of my own house.

11 Q What about the chicken carbonara video, do  
12 you recall that one that you put on YouTube?

13 A I -- I think that, and I have to check,  
14 but I think that that was a Facebook Live, and I  
15 can't remember.

16 Q Okay.

17 A I honestly don't remember. I've done so  
18 many videos.

19 Q Okay.

20 A I do believe that I did a carbonara video  
21 in my own kitchen.

22 Q Okay. Do you recall whether it was in the  
23 chicken carbonara video or any of the marketing  
24 materials that you've made available to the public  
25 about the Power Pressure Cooker XL, have you

1 represented that you couldn't get the lid to come  
2 off if the contents were still under pressure?

3 MR. FECZKO: Object to form.

4 Q Have you made that representation?

5 A Yes.

6 Q Okay. How many times have you tried to  
7 remove the lid on a Power Pressure Cooker XL unit  
8 while the contents were under pressure?

9 A Quite a few, a lot.

10 Q Okay.

11 A I have tried.

12 Q And -- and so you tried to force the lid  
13 open just to test it or what was the --

14 A Force the lid, I don't know if I would say  
15 force the lid. I have tested the lid --

16 Q Okay.

17 A -- and I've shown people live on  
18 television, you know, where I've given it -- when  
19 you say force, I went like this, I jiggled it.

20 Q Right.

21 A It doesn't move.

22 Q Right.

23 A I've done that in my own home, trying  
24 to --

25 Q Right.

1           A       But, you know, when you're selling  
2 something on television, you want to give people an  
3 understanding of what it means when it's up to  
4 pressure.

5           Q       Right.

6           A       And I typically, and I've sold this a lot  
7 of times live, so not every presentation is the  
8 same, they're all unscripted, show hosts ask  
9 different questions all the time, so they're not  
10 always exactly the same, but typically, what I say  
11 is if you can't move it, it's under pressure. So  
12 allow the pressure to release, and then when it  
13 opens easily, you know it's done.

14          Q       Okay. But can you and I agree that if a  
15 consumer can open the lid while the contents are  
16 under pressure, that could be dangerous?

17                   MR. FECZKO: Object to form.

18          A       How much pressure are we talking about?

19          Q       How about enough pressure to expel the  
20 contents out of the -- the contents out of the unit.

21          A       I don't know how much pressure that would  
22 take, but I do know that there are some products on  
23 the market that do have pressure in it, stovetop  
24 products that do have low pressure in them, and you  
25 can take the lid off while there's low pressure

1 under there. That's how they're designed.

2 Q Well, sure, but if you -- I'm talking  
3 about a pressure cooker which cooks with a lot of  
4 pressure. Correct? The Power Pressure Cooker XL  
5 cooks with enough pressure such that when there is a  
6 certain amount of pressure in the unit, you don't  
7 want to be able to remove the lid because that could  
8 be dangerous. Could we agree to that?

9 MR. FECZKO: Object to the form.

10 A You don't want -- yeah. The lid locks  
11 when it's under pressure.

12 Q Right.

13 A And when it's under pressure, you can't  
14 open it.

15 Q Okay.

16 A Unless, I mean, maybe a bulldozer or  
17 somebody blunt force tried to open -- I'm sure it  
18 can be opened. I mean, anything can be done.

19 Q Right.

20 A But in the normal use of things, if you  
21 just try to see if the lid opens up --

22 Q Right.

23 A -- like a normal person would, it's not  
24 going to open.

25 Q Okay. And you know that because you've

1 tested it?

2 A In my -- that's -- of course --

3 Q Right.

4 A -- everything I'm saying is my experience,  
5 I'm not an engineer.

6 Q Right.

7 A But I have tried several times, and I've  
8 shown on air life, I say, "Look, guys, you can't  
9 open it," and the show hosts have done it as well.  
10 They're saying, "See, I'm trying to open it, but I  
11 can't," that's means there's pressure inside.

12 Q Right.

13 A We release the pressure. We let the  
14 pressure release manually, naturally, and then you  
15 just take one little, like two fingers will open it.  
16 It slides very easily. It doesn't slide very easily  
17 when there's pressure in it or you know.

18 Q Right. Among the built-in safety features  
19 that are described in the manual, and I'm looking at  
20 page three now, is a -- page three, number one of  
21 the manual, a "Lid Safety Device."

22 What is the purpose of that safety feature  
23 on the Power Pressure Cooker XL?

24 A The lid safety device?

25 Q Yes.

1           A       "The lid safety device prevents pressure  
2 build-up if the lid is not closed properly."

3                   Oh. So if you go to close the lid, and  
4 let's just say you thought you closed it all the  
5 way, but you didn't, pressure would come out and it  
6 wouldn't go up to pressure.

7           Q       Okay. Let's -- please read the whole  
8 sentence for me.

9           A       Sure.

10          Q       Okay.

11          A       "Lid Safety Device prevents pressure  
12 build-up if lid is not closed properly and prevents  
13 lid from opening until all pressure is released."

14          Q       Okay. So the purpose -- you and I can  
15 agree that the purpose of the lid safety device is  
16 to prevent the lid from opening until all pressure  
17 is released from the unit. Correct?

18                   MR. FECZKO: Object to the form.

19          A       When there's pressure in the pressure  
20 cooker --

21          Q       Yes.

22          A       -- in my experience, you can't open it.

23          Q       Okay. And you shouldn't be able to open  
24 it while there's pressure in the unit. Right?  
25 That's why it's a safety feature.



1           A     When there's pressure in the pressure  
2 cooker --

3           Q     Yes.

4           A     -- you can't open the lid.

5           Q     Okay. Would you agree with me that that  
6 is a safety feature?

7                     MR. FECZKO: Object to the form.

8           A     That you can't open the lid?

9           Q     While the contents are under pressure,  
10 yes.

11          A     Yes.

12          Q     Okay, thanks.

13                     And would you agree with me that the  
14 purpose of the lid safety device described in the  
15 manual, one of the purposes is to prevent the lid  
16 from opening until all the pressure is released;  
17 correct?

18          A     I think that was the same thing.

19          Q     Okay. So yes, you would agree that's the  
20 purpose of the lid safety device?

21          A     When there's pressure -- yeah, I don't  
22 know. When there's pressure in the pressure  
23 cooker --

24          Q     Yeah.

25          A     -- you shouldn't be able to open the lid.

1 Q Okay. Because if you can open the lid  
2 while the contents are under pressure, that could  
3 cause burns?

4 MR. FECZKO: Object to form.

5 A You can't open the lid if it's under  
6 pressure.

7 Q I understand.

8 A And if you open the lid --

9 Q Yes.

10 A -- that would mean there's no pressure.  
11 And if there's no pressure, it's not a safety issue.  
12 Then it's just a stockpot.

13 Q Okay. I understand you don't believe the  
14 lid can be rotated while the contents are under  
15 pressure, correct, based on your experience?

16 A Yes.

17 Q Okay.

18 A Based on my experience, I have not been  
19 able to open the lid.

20 Q Okay.

21 A I have not taken a sledge hammer to it or  
22 something, like, extreme.

23 Q Sure.

24 A But normal usage, I've never been able to  
25 get the lid off.

1           Q     If a consumer can open the lid while the  
2 contents are under pressure, that could be a safety  
3 issue. Can we agree to that?

4                     MR. FECZKO: Object to form.

5           A     I think it's a hard question to answer  
6 because I've used and seen products sold on live TV  
7 that have pressure in them.

8           Q     Right.

9           A     And you just open it up, and it pops up  
10 like a soda can.

11                    There's -- there's pressure in a soda can.  
12 That's not dangerous.

13                    So maybe there could be pressure in there,  
14 a slight amount, and it wouldn't be a problem. So I  
15 don't know where that delta is. I have no idea, but  
16 I know that the simple pressure safety of the  
17 pressure cooker is that it doesn't open when there's  
18 pressure in it. If you can open it, there's no  
19 pressure in it.

20           Q     Okay.

21           A     That's my experience.

22           Q     I understand that's your experience. And  
23 that's the only basis for your opinion is your  
24 experience, because you're not an engineer and you  
25 haven't tested --

1 A No.

2 Q -- it from that perspective?

3 A That's right.

4 Q Okay. Can you and I at least agree that  
5 the steam generated in the Power Pressure Cooker XL  
6 and the hot liquid could cause severe burns?

7 MR. FECZKO: Object to form.

8 A Any hot liquid can cause burns.

9 Q Okay.

10 Are you familiar at all with the injuries  
11 received by Ken Chapman or Jessica Vennel or Jason  
12 Jackson?

13 A No.

14 Q Okay. You don't know that they're the  
15 plaintiffs in this case, or do you?

16 A No, I do not know that.

17 Q You have never heard those names before?

18 A Never heard those names.

19 Q You've never met anybody who's been  
20 injured as a result of these pressure cookers, have  
21 you?

22 A No.

23 Q Do you know how many people have  
24 complained of injuries directly to Tristar as a  
25 result of this pressure cooker?

1           A       I do not.

2           Q       Okay. Have you asked Tristar, "Hey, how  
3 many people have been hurt by these pressure  
4 cookers?"

5           A       No.

6           Q       Do you care?

7           A       Of course I would care if somebody would  
8 be hurt.

9           Q       Okay.

10          A       The return rate on the pressure cooker,  
11 from what I understand, is very, very good.

12                   QVC is, like I said, they have a very  
13 powerful vetting system. Just -- and I'm intimately  
14 involved with them, I think I would know if there  
15 was some problem.

16          Q       Is there a certain number of people that  
17 would have to be injured using the Power Pressure  
18 Cooker XL which would convince you that there might  
19 be a defect in the design of unit?

20                   MR. FECZKO: Object to form.

21          A       That's a hard question to answer.

22          Q       It's a yes-or-no question.

23                   MR. FECZKO: Object to form.

24          A       It's not a yes-or-no question because I  
25 have worked in restaurants. I've -- I've been in

1 the culinary world for a very long time. People get  
2 burned, cut, smashed fingers all the time. I've seen  
3 people, horrible injuries from mandolin slicers to  
4 grating cheese. I mean, I'm sure those products  
5 have hurt a lot of people, and it doesn't mean  
6 people shouldn't use a grater because maybe somebody  
7 made a mistake or misused it, or a stockpot, for  
8 that matter.

9 Q Well, hypothetically, what if I told you  
10 ten people had been able to remove the lid from a  
11 Power Pressure Cooker XL while the contents were  
12 under pressure and had been burned, would that  
13 surprise you?

14 A Yes, that would surprise me.

15 Q Okay. What if I -- would that -- would  
16 that warrant, in your mind, some followup as to how  
17 this happened?

18 MR. FECZKO: Object to the form.

19 A In my opinion, if that happened, if it  
20 could happen, it would probably be from misuse --

21 Q Okay.

22 A -- of some type.

23 Q What if I told you this happened to 20  
24 people; same thing?

25 MR. FECZKO: Object to the form. What's

1 the question?

2 A Yeah, I don't understand what you want me  
3 to say.

4 Q What if I increase the number to 20 people  
5 that were burned while using the Power Pressure  
6 Cooker XL, would that change your opinion?

7 A I think more than that -- I think more  
8 than that amount of people have been burned using  
9 stockpots.

10 Q Okay. What about --

11 A I don't --

12 Q What about 30 or 40 people --

13 A The same. The same.

14 Q -- that were burned?

15 A My answer will be the same no matter how  
16 many you say.

17 Q Okay.

18 A I think that people get hurt in the  
19 kitchen. Sometimes it's an accident. Sometimes  
20 it's from misuse. Forget about the pressure cooker,  
21 any product that I've sold.

22 Q Okay.

23 A People forget that handles get hot in the  
24 oven. They take it out without hot mits. I mean,  
25 there's lots of things. Doesn't mean that people

1 are intentionally misusing the product, but those  
2 things happen. People don't always do the right  
3 thing in the kitchen.

4 Q Are you aware of any fact which would  
5 support a conclusion that Ken Chapman or Jessica  
6 Vennel or Jason Jackson misused their Power Pressure  
7 Cooker, and that's what caused their injuries?

8 A I don't know these people. I have no idea  
9 what they did --

10 Q Right.

11 A -- for that to happen. I'm sorry that  
12 they got hurt. But I can tell you that in my  
13 experience, I don't see how you could get hurt with  
14 the Power Pressure Cooker unless you misused it or  
15 you put your hand accidentally in the hot liquid  
16 or --

17 Q Right.

18 A I don't know how that could happen in my  
19 experience.

20 Q Right. But that's all speculation because  
21 you don't really know of any facts which would  
22 support a finding --

23 A I don't.

24 Q -- that any of the plaintiffs --

25 THE WITNESS: Sorry.



1 Q -- misused their product. Right? Is that  
2 correct?

3 A I'm sorry. Say that again because I was  
4 over-talking.

5 Q I said -- I said your -- any -- any  
6 opinions you have about misuse involving Ken Chapman  
7 and Jessica Vennel or Jason Jackson, that's all  
8 speculation because you don't know of any facts  
9 which would support a conclusion that they misused  
10 their units.

11 A I don't know them at all. I don't know  
12 how it happened. I don't know what happened. I  
13 know nothing about them.

14 Q Okay.

15 A But for the record, I feel horrible that  
16 they got hurt in some way.

17 Q Okay.

18 A And it's not just a number.

19 Q As a matter of fact, let me just ask you  
20 this: Do you have any knowledge that any of the  
21 individuals outside of the plaintiffs that have been  
22 burned using a Power Pressure Cooker XL misused the  
23 product?

24 MR. FECZKO: Object to form and  
25 foundation.

1           A     I don't know. I don't know of any people  
2 that got hurt with the Power Pressure Cooker.

3           Q     Okay. So you don't know of incidences of  
4 misuse which led to injuries. Correct?

5           A     I don't.

6           Q     Okay.

7           A     I don't. If somebody mentioned something  
8 on my Facebook page, I would have sent it over.

9           Q     Okay.

10          A     I have a lot of banter. If somebody said  
11 something -- typically, the things that I get on  
12 Facebook are maybe my recipe didn't come out right.

13          Q     Right.

14          A     Or why wasn't my meat as tender as I  
15 thought.

16          Q     Right.

17          A     You know, those kind of things.

18          Q     Right.

19          A     They typically don't come to me for that  
20 stuff if --

21          Q     Yeah.

22          A     -- if it happens.

23          Q     What do you -- what do you mean when you  
24 say if somebody would have mentioned it, getting  
25 injured on Facebook, you would have sent it over?

1           A     Not injured. I said if I get customer  
2 complaints, I sent them over to -- I send them to  
3 Tristar.

4           Q     I see.

5           A     Yeah.

6           Q     So in any of your social media where you  
7 post, has anybody ever made a complaint about an  
8 injury from the Power Pressure Cooker?

9           A     Not that I can recall.

10          Q     Okay. And you would remember that,  
11 wouldn't you?

12          A     I would remember if somebody said that  
13 they were hurt in a horrible way, you know. If I  
14 hurt my finger, you know, taking it out of the box  
15 or something, you know, I probably wouldn't remember  
16 that.

17          Q     I'm talking about burns. You would  
18 remember that?

19          A     I think I would.

20          Q     Okay. All right.

21               MR. FECZKO: Good time for a break if  
22 you're switching gears or?

23               MR. EDWARDS: Yeah, we can take a break.

24               MR. FECZKO: If you have something else,  
25 we can take --

1 MR. EDWARDS: No. We're fine. Take a  
2 break.

3 THE VIDEOGRAPHER: Going off the record.  
4 The time is 4:03. This ends Disk 1.

5 (A short break is taken.)

6 THE VIDEOGRAPHER: We are back on the  
7 record. The time is 4:11. This is Disk 2.

8 Q All right, Mr. Theiss. We're back on the  
9 record, and I think I understand your opinion from  
10 before our break to be, based on your personal  
11 experience with this unit, that the Power Pressure  
12 Cooker XL can safely be used to cook food under  
13 pressure. Is that accurate?

14 A Yes.

15 Q And that is an opinion that you plan on  
16 giving at the trial in this case?

17 A Yes.

18 Q Okay. And that is the primary intended  
19 purpose for the Power Pressure Cooker XL, to safely  
20 cook food under pressure. Correct?

21 MR. FECZKO: Objection. Asked and  
22 answered.

23 A It's one of the -- it's one of the reasons  
24 you would use the Power Pressure Cooker XL.

25 Q Would you say it's the primary reason?

1 MR. FECZKO: Objection. Asked and  
2 answered.

3 A I think based on the name, it's Power  
4 Pressure Cooker XL, but it's also a slow cooker, it  
5 does other things too.

6 Q Okay. Can you and I agree that if you  
7 can't safely use the Power Pressure Cooker XL to  
8 cook food under pressure, it loses its value?

9 MR. FECZKO: Object to form.

10 A I just don't understand the line of  
11 questioning, and I know you're going to get mad at  
12 me. I just don't understand why you would ask me  
13 that question.

14 The Power Pressure Cooker XL, which I've  
15 used so many times, has never had a defect. I've  
16 used it so many times, my friends and family, my  
17 extended friends and family, the food stylist that I  
18 work with. A thousand meals or more have been used  
19 by me and probably beyond that with the -- with my  
20 extended family that I know personally and from  
21 Facebook. I don't know why you would say that at  
22 all. It is a safe product, in my opinion, and  
23 people love it.

24 There's Facebook pages created just for  
25 the Power Pressure Cooker XL that myself nor Tristar

1 had anything to do with. These are cooking groups  
2 that literally built a Facebook page with thousands  
3 of people that share recipes and answer questions on  
4 their own, independent of me or Tristar or any  
5 company.

6 Q Right.

7 A That -- that, to me, shows that the Power  
8 Pressure Cookers, in a weird way, kind of love --  
9 people love it. They even call it the PPXL. People  
10 humanize it. It's a -- it's a -- it's a great  
11 product that's given thousands and thousands and  
12 thousands of people great meals.

13 Q Okay. And I understand that.

14 A My opinion, of course.

15 Q I really do understand your opinion that  
16 you love the product, and you don't think it's  
17 defective.

18 A I do.

19 Q I get that.

20 A It's one of my favorite products I've ever  
21 sold.

22 Q My question is a little different, though.  
23 I want you -- I want to see if we can agree to  
24 something a little basic.

25 You've told me, I think, that the primary

1 intended purpose of this pressure cooker is to  
2 safely cook food under pressure. And I'm asking you  
3 if you can't use the pressure cooker to safely cook  
4 food under pressure, can't we agree that it loses  
5 its value?

6 MR. FECZKO: Object -- object to form.  
7 Asked and answered.

8 MR. EDWARDS: I haven't heard an answer  
9 yet.

10 MR. FECZKO: Yes, you've heard it about  
11 eight times, and you're going to have to start  
12 moving on.

13 Q You need to answer the question.

14 MR. FECZKO: He has.

15 MR. EDWARDS: Are you instructing him not  
16 to answer, Jon?

17 MR. FECZKO: No. I'm telling you to move  
18 on --

19 MR. EDWARDS: Okay. Then you --

20 MR. FECZKO: -- because you're harassing  
21 the witness at this point.

22 MR. EDWARDS: No. No. I have not got an  
23 answer.

24 MR. FECZKO: You have gotten an answer.

25 Q I understand you don't think the product

1 is defective. I'm asking you a different question.

2 I'm asking you if this Power Pressure  
3 Cooker can't be used to safely cook food under  
4 pressure, can't we agree that it would lose its  
5 value?

6 MR. FECZKO: Object to form. Asked and  
7 answered.

8 Q Does it lose value if it can't do what  
9 it's intended to do?

10 A I'm not a lawyer. I'm not a lawyer.

11 Q Yeah.

12 A I don't think I should be forced to answer  
13 a hypothetical question.

14 Q Well, that's not what the law is. It is  
15 proper and appropriate to ask hypothetical  
16 questions, so I need you to answer it, sir.

17 A In my opinion, the Power Pressure Cooker  
18 is not defective.

19 Q Okay. And that is a non-responsive  
20 answer, so I'm going to ask you the question again.

21 Let me -- let me --

22 A I think it's an unfair question. I'm  
23 sorry.

24 Q Let me -- let me try it a different way.

25 Do you understand that the jury in this



1 case will determine whether or not this pressure  
2 cooker is defective and unsafe; do you understand  
3 that?

4 A I -- based on what? I don't know -- like,  
5 I have no idea.

6 Q You have no idea what this trial is about.  
7 Right?

8 A No. You're telling me right now, but what  
9 I'm saying is of course the jury decides that.

10 Q Okay. Okay. Thanks. Okay. Well, let's  
11 move forward.

12 A Yeah. I mean, that's obvious.

13 Q Assume that the jury decides that this  
14 product is defective and unsafe. Can you and I at  
15 least agree that that would make it more difficult  
16 for you to sell this product?

17 MR. FECZKO: Object to form. Asked and  
18 answered. He has answered this exact question  
19 several times, Adam.

20 MR. EDWARDS: First time I've asked this  
21 question.

22 MR. FECZKO: No, absolutely not. I can  
23 read it from the testimony if you want.

24 You are harassing the witness at this  
25 point.

1 MR. EDWARDS: Yeah, you're wrong. You're  
2 wrong. I've not asked him a single question about  
3 the outcome of what the jury determines yet. That's  
4 the first time I've asked him that question.

5 MR. FECZKO: That's not the question you  
6 just asked him. You just --

7 MR. EDWARDS: I absolutely did. I'll ask  
8 it again.

9 Q Assume that the jury in this case finds  
10 that this product is unsafe and defective. Will  
11 that make it more difficult for you to sell this  
12 product?

13 A I don't understand how they would find  
14 that the product was defective because I've used it  
15 over a thousand times and it is not defective. That  
16 would be shocking.

17 Q Okay. Assume the shocking happens --

18 A I shouldn't have to.

19 Q -- would it -- would it make it more  
20 difficult for you to sell this product? Yes or no?

21 A I'm sorry, but I don't think I should have  
22 to answer your hypothetical question.

23 Q Okay.

24 A I don't -- I mean.

25 Q Well, the person that represents Tristar

1 can tell you --

2 A Maybe I'm going to get in trouble for  
3 this --

4 Q -- that it is appropriate to ask  
5 hypothetical questions in depositions. It happens  
6 all the time. If you're refusing to answer that --

7 A I'm not refusing to answer.

8 Q Okay.

9 A I'm saying your -- your hypothetical  
10 question about the Power Pressure Cooker XL is  
11 hypothetical, and I shouldn't have to answer a  
12 hypothetical question.

13 It's subjective. Like, who cares what I  
14 think about your hypothetical question?

15 Q Who cares what you think about my  
16 hypothetical --

17 A My opinion about the Power Pressure Cooker  
18 is based on my use of it.

19 Q Sure.

20 A I've used it so many times. It's not  
21 defective in my opinion.

22 Q I get that.

23 A So what -- what are you trying to make me  
24 say?

25 Q You -- you -- you and I -- you and I agree

1 that you're not the jury in this case. You're not  
2 the one making the determination as to whether this  
3 product is defective.

4 A No.

5 Q Right?

6 A I guess we don't know what the jury is  
7 going to do.

8 Q Right. But a jury will. Can we agree to  
9 that? A jury will determine --

10 A Yes, a jury will determine.

11 Q Okay. And assume -- assuming the jury  
12 finds this product is defective, that makes it more  
13 difficult for you to sell, doesn't it?

14 A I don't -- I don't believe that to be  
15 true. I have seen products that have been deemed to  
16 have some safety problems. Cars all day long have  
17 air bags that explode. People still buy cars.

18 Q Sure.

19 A So -- so Ford doesn't or GM doesn't have  
20 any problems selling cars when -- when they have  
21 recalls.

22 Q If the jury -- so if the jury in this case  
23 finds this product to be defective and unsafe, you  
24 won't have any problem continuing to sell it?

25 A It would depend on all -- on a ton of

1 information.

2 Q Okay.

3 A I would need -- based on my experience in  
4 using this product, which has been, I think we  
5 established, a lot --

6 Q Right.

7 A -- I would have to see a lot of evidence  
8 and compelling data to prove that my experience was  
9 somehow different.

10 Q Sure.

11 A And I can't imagine that to be true --

12 Q Right.

13 A -- based on the amount of pressure cookers  
14 I've used live on television. Just my last Today's  
15 Special Value I think I used 70 different pressure  
16 cookers during a 24-hour period. If I was afraid  
17 that there was a defect, I wouldn't do that on live  
18 TV.

19 Q Right. And I'm really not trying to ask  
20 you any more questions about the defect. I'm very  
21 clear as to what your opinion is on the defect.

22 I'm trying to -- I'm trying -- what I'm  
23 trying to get is do you have any opinions as to the  
24 value that this unit might have to Jessica Vennel  
25 and Ken Chapman and Jason Jackson, do you know what,

1 if any, value these pressure cookers have to them?

2 A I am super sorry that those people were  
3 injured in whatever way they were injured. I do not  
4 know what happened to them or how or why. No idea.

5 Q So you don't have any opinion one way or  
6 other --

7 A I've been cooking -- I have been cooking  
8 for a very long time.

9 Q Right.

10 A I've burned myself. I've cut myself. I  
11 still use those products.

12 Q Right.

13 A So to say just because I burned myself on  
14 a stockpot, that stockpot has no value to me is not  
15 true.

16 Q Right.

17 A So I -- maybe I'm coming at this from a  
18 different --

19 Q Yeah.

20 A -- point of view because I'm a -- I was a  
21 chef and I've worked in the kitchen.

22 Q You're describing your own personal  
23 experience and --

24 A That's all I can.

25 Q And -- and I -- I agree with that. We can

1 agree to that.

2 A I don't know these people.

3 Q Right.

4 A I don't know what they did with the  
5 pressure cooker. I wasn't in the kitchen with them.

6 Q As far as how much this product is worth  
7 to Ken Chapman or Jessica Vennel or Jason Jackson,  
8 you'd have to speculate, wouldn't you?

9 A I have no idea what happened to them or  
10 how -- how it happened or what they did or why  
11 they -- I have no idea. I don't know them.

12 Q So the answer is yes, it would be pure  
13 speculation for you to give opinions on the value of  
14 this cooker to any of the plaintiffs in this case.  
15 Right? Yes or no?

16 MR. FECZKO: Object to form.

17 A I just don't understand what you're asking  
18 me.

19 Q Okay. You have been offered as a witness  
20 in this case who's going to testify as to the value  
21 of these pressure cookers. Do you understand that?

22 A I'm telling you the value of these  
23 pressure cookers is fantastic.

24 Q Right.

25 A People love the Power Pressure Cooker XL.

1 They have their own Facebook pages.

2 Q Yeah.

3 A That -- that -- that, to me, shows value.

4 I have people tell -- there's so much love on my  
5 Facebook page for this product, that, to me, shows  
6 value.

7 Q To you. You --

8 A No, not to me.

9 Q Okay.

10 A To other people.

11 Q Okay. To other unnamed people on your  
12 Facebook page.

13 A They're not unnamed. They have names.

14 Q Okay. So you know people out there who  
15 have no idea about the defect in this lawsuit that  
16 like the product. Right?

17 A That's true.

18 Q Okay. And that is the full --

19 A Because I don't know of any defect.

20 Q Right. Okay. And you have no idea how it  
21 would affect the value of this product if people  
22 know about the defect. Right?

23 A No, I have no idea.

24 Q Okay.

25 A Is that -- that's --



1 Q That answers the question, thank you.

2 A I don't know.

3 Q Okay. All right.

4 Do you know George Cruz?

5 A Yes.

6 Q Okay. Have you worked with him?

7 A Yes.

8 Q Okay. What's his role at Tristar?

9 A I don't know his exact position, but he's  
10 a staff chef maybe.

11 Q Okay. Is he an engineer?

12 A No, not that I know of.

13 Q Okay.

14 A I don't know his background.

15 Q Okay. All right.

16 A Other than I know him, I've worked with  
17 him, and I know he can cook.

18 Q I mean, was he involved in the engineering  
19 of the --

20 A I do not know.

21 Q -- Power Pressure Cooker?

22 A I would be very surprised if he was, but I  
23 don't know.

24 Q All right. Because it was in -- the Power  
25 Pressure Cooker was engineered, developed, designed

1 outside of the United States. Correct?

2 A The Power Pressure Cooker was a real  
3 product before I came on board.

4 Q Okay.

5 A I don't know who designed it or engineered  
6 it or came up with the electronics, I don't know.

7 Q Okay. Do you know anything about the  
8 decision to use George Cruz in informational videos  
9 about the Power Pressure Cooker XL?

10 A I know that -- sorry.

11 I know that he has made videos for the  
12 Power Pressure Cooker XL.

13 Q Okay. And you've seen them?

14 A You know, I can -- I don't think I have.

15 Q Okay. All right.

16 Well, let me just -- let me -- let me  
17 quote one of the videos from Mr. Cruz, and you can  
18 tell me whether you agree or disagree with his  
19 statement. Okay?

20 A Okay.

21 Q "Whether human error or mechanical  
22 malfunction occur, using the Power Pressure Cooker  
23 XL is always safe."

24 Do you agree with that?

25 A Say that one more time?

1 Q Yeah.

2 "Whether human error or mechanical  
3 malfunction occur, using the Power Pressure Cooker  
4 XL is always safe."

5 MR. FECZKO: Object to form and  
6 foundation.

7 Q Do you agree with that statement?

8 A I think it's a strange statement.

9 Q Okay.

10 A It's kind of not well thought out in just  
11 the -- in its English.

12 Q Okay.

13 A I'm not sure what he was trying to say  
14 there. I do know that he has a pretty heavy accent.  
15 I don't know what he was actually trying to say.  
16 That doesn't really make sense to me, in the words  
17 more than the content.

18 Q Right. So you don't understand what is  
19 meant by "human error"?

20 A Human error --

21 Q Right.

22 A -- to me is that somebody tried the lift  
23 the pot out without hot mits or something.

24 Q Right.

25 A That's human error to me.

1           Q     Right.  You made a mistake or used it in  
2 some way that you shouldn't.  Is that human error to  
3 you?

4           A     Yes.  Filling it too high --

5           Q     Okay.

6           A     -- would be human error.

7           Q     All right.

8                     Forcing the lid, trying to force the lid  
9 off, would that be human error, an example of human  
10 error?

11                    MR. FECZKO:  Object to form.

12          A     I think if you tried to force the lid off,  
13 I don't know if that would be human error.  I mean,  
14 I guess it would be human error.  You shouldn't do  
15 that.

16          Q     Okay.  But you have no -- well, let me ask  
17 you the question again.

18                    Do you have an opinion as to whether that  
19 statement is accurate?  And I'll read it for you one  
20 more time.

21          A     Can I read it myself?  I -- I --

22          Q     Sure.

23          A     I'm just not really getting what he's  
24 saying here.

25          Q     Well, I only -- I only have it on my own

1 outline --

2 A I'm sorry, yeah.

3 Q -- that I probably shouldn't show you.

4 A That's fine. I don't understand what he's  
5 getting at.

6 Q Let -- let me read it one more time.

7 "Whether human error or mechanical malfunction  
8 occur, using the Power Pressure Cooker XL is always  
9 safe."

10 MR. FECZKO: Object to the form.

11 A Just the --

12 Q Do you agree with that statement?

13 A I can't agree with it because it  
14 doesn't -- it just doesn't make sense. It -- it --  
15 it goes both ways.

16 Q Right.

17 A It -- it-- it's -- I think he misspoke.

18 Q Okay.

19 A Only because I don't think it's just  
20 English. I don't think it's a proper way of  
21 speaking.

22 Q Well, let me put it in context for you.  
23 This is a safety features video that Mr. Cruz is  
24 doing where he makes this statement.

25 A Okay.

1           Q     And it sounds -- it sounds like he's  
2 stating even in the event of human error, these  
3 safety features would keep use of the Power -- Power  
4 Pressure Cooker safe. Is that a reasonable  
5 interpretation of the statement?

6                     MR. FECZKO: Object to form.

7           A     It could be a -- it could be an  
8 interpretation. I don't know.

9           Q     Okay.

10          A     It's a weird statement to me.

11          Q     You'd -- how do you interpret the  
12 statement?

13          A     I -- I really don't. I mean, maybe that's  
14 what he's trying to say.

15          Q     Okay. I mean, do you have a better  
16 interpretation than that one?

17          A     I don't. I don't like to interpret what  
18 people try to say.

19          Q     Okay.

20          A     I mean, I'm sure people try to interpret  
21 me when I'm selling live, it would be difficult  
22 sometimes.

23          Q     Well, this is -- this is instructional for  
24 consumers. Right? This is a video that Tristar  
25 puts out. Right?

1 A I don't know if he read a teleprompter.

2 MR. FECZKO: Object to the form.

3 THE WITNESS: Sorry. I'm sorry.

4 Q Okay.

5 MR. FECZKO: Go ahead.

6 A I wasn't there. I don't know how they did  
7 these.

8 Q Okay.

9 A When I do my videos, for the most part, I  
10 do them off the cuff.

11 Q Okay.

12 A I don't have a script.

13 Q Okay. Do you agree with -- here I'm --  
14 let me see if I can find it.

15 Page eight of the manual, that's  
16 Exhibit 2, under "Frequently Asked Questions," this  
17 is meant to be instructional for the user. Right?

18 MR. FECZKO: Object to form.

19 Q Or do you know?

20 A It's a manual.

21 Q Right. And manual -- a manual for a  
22 product gives instructions to users. Right?

23 A Yeah.

24 Q Okay.

25 A That's --

1 Q All right.

2 Number 4 is the question under the  
3 "Frequently Asked Questions" section that I'm going  
4 to ask you about. Okay?

5 A Okay.

6 Q Would you agree that Tristar has  
7 represented that the lid should only come off of the  
8 Power Pressure Cooker XL if there was no pressure  
9 inside?

10 MR. FECZKO: Object to form. Foundation.

11 A I don't know what Tristar -- I don't know  
12 what Tristar is trying to say. I know --

13 Q Right.

14 A -- that when I try to take the lid off  
15 when there's pressure in, it doesn't come off.

16 Q Okay. Would you read Number 4, the  
17 question and the answer?

18 A Sure. "Why would the lid come off when it  
19 shouldn't? It should only come off if there was no  
20 pressure inside."

21 Q That's Tristar that wrote this manual.  
22 Right?

23 A Yeah, yeah.

24 Q All right. So Tristar is representing in  
25 this manual that it should only come off, that being



1 the lid, should only come off if there is no  
2 pressure inside. Right?

3 MR. FECZKO: Object to form. Foundation.  
4 Asked and answered.

5 Q Is that right?

6 MR. FECZKO: Same objections.

7 THE WITNESS: So do I answer again?

8 MR. FECZKO: Yeah.

9 THE WITNESS: Sorry. It's confusing.

10 A Yes. The lid should not come off if  
11 there's pressure inside.

12 Q Okay. Thank you.

13 Have you actually tried hard to remove the  
14 lid while the contents were under pressure or were  
15 you just kind of acting in the video?

16 A I wasn't acting.

17 Q Okay.

18 A "Hard" is subjective.

19 Q Okay.

20 A I mean.

21 Q Your words are "I can't open the lid no  
22 matter how -- how hard I try because it's still  
23 under pressure."

24 A Right.

25 Q That's from the chicken carbonara video.

1 A Yeah.

2 Q Does that sound accurate?

3 A It sounds like something I would say.

4 Q Okay.

5 A Yeah, I mean --

6 Q Did you really try hard to open it --

7 A Yeah, I think even --

8 Q -- while the contents were under pressure?

9 A I'm sorry I'm over-talking.

10 Q Did you really try hard to open it while  
11 the contents were under pressure or were you acting?

12 A I absolutely tried to open it.

13 Q Okay.

14 A And I've done it on live TV.

15 Q Okay.

16 A I make it go like this.

17 Q Okay.

18 A I mean, I don't, you know, put it on the  
19 floor and kick it, but I go like this and I say if  
20 you can't turn it, it's got pressure.

21 Q Okay. It appeared to me on the chicken  
22 carbonara video you were trying to open it while the  
23 contents were under pressure before letting any of  
24 the steam out. Is that correct?

25 A I'd have to watch the video.

1 Q Sure.

2 A I don't remember --

3 Q Fair enough.

4 A -- exactly that.

5 Q Do you remember if you've ever tried to  
6 let some of the steam out, maybe half of the  
7 pressure out and then try to open it?

8 A I wouldn't be able to know how much was  
9 out.

10 Q Okay.

11 A Whether it was half or -- you know,  
12 there's no way for me to measure that, but I can  
13 tell you that if the steam is coming out of the  
14 vent --

15 Q Right.

16 A -- I would show people, look, you can't  
17 open it.

18 Q Yeah.

19 A Wait for that pressure to fall down, and  
20 then you'll be able to open it easily. When you can  
21 open it easily, you can take the lid off. That's a  
22 typical discourse of what I say.

23 Q So you've actually tried to open the lid  
24 while there -- while there was steam coming out of  
25 the vent?

1           A       I may have.

2           Q       Okay.

3           A       I'm not saying specifically in any -- in  
4 any of this because I -- I've done them -- they were  
5 pretty old.

6           Q       Right.

7           A       I have shown many times that you can't  
8 open the lid while it's under pressure. Whether  
9 there was steam coming out while I was doing that, I  
10 don't remember.

11          Q       Okay.

12          A       I may have.

13          Q       Okay.

14          A       It's part of my demonstration to show  
15 people the steam isn't going to ruin your house kind  
16 of thing.

17          Q       Right.

18          A       You know, you're -- you're always showing  
19 people don't open the lid or if there's pressure and  
20 you can't, you can hear the pin drop.

21                 You know, you tend to use your hands and  
22 do a lot of things on TV that you wouldn't maybe do  
23 in a normal discourse because you're trying to get a  
24 point across.

25          Q       Your words were you're trying to show

1 people don't open the lid. What do you mean?

2 A No. I'm saying on live TV, when I show  
3 people --

4 Q Right.

5 A You know, you do things with your hands --

6 Q Yeah.

7 A I wouldn't do this with you, like don't,  
8 you know, but on TV, you almost have to say, "Look,  
9 I'm trying to open it, but you can't."

10 Q Right.

11 A You know, that -- so it's -- it's part of  
12 my normal discourse --

13 Q Right.

14 A -- to tell people that the lid won't come  
15 off under pressure.

16 Q Right.

17 A That you need to let the pressure out. If  
18 you're standing there, you'll actually hear the pin  
19 drop; and then with very little effort, you can open  
20 the lid.

21 Q Right.

22 A If you can open the lid --

23 Q Okay.

24 A -- the pressure's going to be released.

25 Q But can you and I agree that the reason

1 why you're showing people that the lid won't open  
2 while it's under pressure is because this  
3 illustrates one of the safety features of the  
4 pressure cooker?

5 A Yes.

6 Q Okay.

7 I believe we touched on this earlier, but  
8 I just want to make sure that I -- that I understand  
9 your answer.

10 Do you feel like you're qualified as an  
11 expert to value the Power Pressure Cooker XL to  
12 ordinary customers or are you giving opinions as a  
13 layperson?

14 MR. FECZKO: Object to form.

15 A I think neither and both. I think -- I  
16 think I've used the pressure cooker many, many  
17 times. I've written a cookbook on it. I think I  
18 can teach or show people how to use it and why it's  
19 great and why they'll love it.

20 Q Right.

21 A Whether that makes me an expert or not I  
22 think is subjective. I mean, I didn't go to school  
23 for pressure cooking. I don't know how you quantify  
24 that.

25 Q Sure. And I know you're not an engineer,

1 and you're not an expert about whether a certain  
2 design is defective. You and I can agree to that.  
3 Right?

4 A I am definitely not an engineer.

5 Q Okay. Okay.

6 And I'm asking you specifically about  
7 valuation theory. Are you an expert such that you  
8 can assess the economic value of a particular  
9 product to a particular group of consumers?

10 MR. FECZKO: Object to form.

11 A I don't -- no, I don't think I -- I -- no.

12 Q Okay.

13 A I don't know.

14 Q Do you have any educational background or  
15 training in economics at all?

16 A I think I've taken an economics class in  
17 high school, but no, I would -- I would not call  
18 myself an economist.

19 Q Do you have any training or background in  
20 valuation theory?

21 A No.

22 MR. FECZKO: Object to form.

23 THE WITNESS: Sorry.

24 Q Do you have any education or background in  
25 sociology or consumer expectation?

1 A I have taken a class.

2 Q What, a sociology class?

3 A Yeah.

4 Q And that's all in high school, and that  
5 was all your --

6 A Yes.

7 Q Okay. Do you have any expertise or  
8 background, education or otherwise, in damages  
9 modeling?

10 A No.

11 Q Okay. Have you ever participated or have  
12 any background or experience in conduit analysis  
13 surveys?

14 A I -- no.

15 Q Have you taken any surveys in this case to  
16 support what you expect to be your opinions about  
17 the value of this product?

18 A Of the Power Pressure Cooker?

19 Q Yes.

20 A No.

21 Q Okay.

22 A Wait. When you say "survey," what do you  
23 mean, like did I ask people?

24 Q Have you -- have you conducted a survey to  
25 assess whether the alleged defect in this case --



1 A No.

2 Q -- would affect their opinions about the  
3 value of the product?

4 A I'm sorry, I talked.

5 No.

6 Q Okay. All right.

7 So just to be clear, you have no idea how  
8 this alleged defect might affect the value of this  
9 product in the eyes of consumers. Correct?

10 MR. FECZKO: Object to form.

11 A I guess that would be correct. I --

12 Q Okay.

13 A I don't know.

14 MR. EDWARDS: All right. I think I'm  
15 done. Give me five minutes to look through my  
16 notes, and we'll wrap it up. Okay?

17 MR. FECZKO: Sure. Do you want me to ask  
18 questions in the meantime or do you want to wait  
19 until you're done?

20 MR. EDWARDS: Sure, you can ask questions.  
21 That will probably -- as long as I get a chance to  
22 have a break before I redirect.

23 MR. FECZKO: Why don't we take a break now  
24 and you can finish everything you want --

25 MR. EDWARDS: Okay.

1 MR. FECZKO: -- and then we can do it  
2 properly.

3 MR. EDWARDS: All right. That's fine.

4 MR. FECZKO: All right. Off the record.

5 THE VIDEOGRAPHER: Going off the record.

6 The time is 4:36.

7 (A short break is taken.)

8 THE VIDEOGRAPHER: We are back on the  
9 record. The time is 4:39.

10 Q We have talked about a number of methods  
11 that you have used, Mr. Theiss, to promote the sale  
12 of the Power Pressure Cooker XL units, and I just  
13 want to ensure that I have a complete list, so let's  
14 go through them.

15 You have worked with Tristar to create TV  
16 infomercials. Correct?

17 A Yes.

18 Q Okay. Those are commonly known as "As  
19 Seen On TV" ads. Correct?

20 A Not really.

21 Q Do you not like that term?

22 A I don't.

23 Q Okay.

24 A Because "As Seen On TV" ads are more of a  
25 flier.

1 Q Okay.

2 A Infomercials, they tend to call  
3 commercials.

4 Q Okay.

5 A Or spots.

6 Q Okay.

7 A It just doesn't matter, really, but --

8 Q The spots you do sell a product, and  
9 they're longer than your average 30-second or  
10 60-second spots, though. Right?

11 A Infomercials are 30 minutes, yes.

12 Q Okay. So you've -- you've done that with  
13 Tristar to -- in an attempt to sell these pressure  
14 cookers or increase sales. Correct?

15 A Yes.

16 Q The infomercials?

17 A Yes, yes.

18 Q Okay.

19 A Yeah.

20 Q And that is -- that is the point of the  
21 infomercial, to drive sales. Correct?

22 A Yes.

23 Q Okay. What other actions have you taken  
24 in an attempt to drive sales of the Power Pressure  
25 Cooker XL units?

1           A     I mean, the other things that I have done  
2 might be subjective to whether they're driving  
3 sales.

4           Q     Right.

5           A     Like videos, how-to videos and recipe  
6 videos, I don't necessarily think they drive sales.  
7 I think it's more of a content-rich place for  
8 customers to go to get --

9           Q     Right.

10          A     -- the most out of their pressure cooker.

11          Q     Okay.

12          A     I don't think it drives sales, though, so  
13 that's why I don't include that in driving sales.

14          Q     Okay. What about building a brand, are  
15 you also trying to help Tristar build the Power  
16 Pressure Cooker XL brand?

17          A     I would say no.

18          Q     Okay.

19          A     Tristar does their own marketing. I'm the  
20 pitch guy, I guess, you know, industry term. I  
21 don't think I help build the brand, no.

22          Q     You do a lot of posting about the Power  
23 Pressure Cooker XL on your own Facebook page.  
24 Right?

25          A     Yes.

1 Q Okay. And I'm assuming that's to help  
2 with sales, right, in part?

3 A I would say I get almost no sales based on  
4 my Facebook page.

5 Q Okay.

6 A Facebook -- is it okay to talk?

7 Q Sure.

8 A Facebook, in my opinion, is more for  
9 content and to give customers a place to feel  
10 comfortable about what they're cooking, share  
11 recipes and ideas.

12 I would say I almost get zero sales on  
13 Facebook.

14 Q Okay. Well --

15 A I don't think it drives sales at all.

16 Q When I go to your Facebook page, I see  
17 that you're -- a lot of the products that you  
18 promote for Tristar are mentioned --

19 A Yes.

20 Q -- over and over again on your Facebook  
21 page. Correct? And I'm sure you're doing that  
22 intentionally. Right?

23 A Yes.

24 Q All right.

25 A Customers want to engage about the

1 products that they buy.

2 Q Okay.

3 A And Facebook is a place to do that. I  
4 don't sell anything on my Facebook page.

5 Q Okay. You do that kind of out of the  
6 goodness of your heart for people that have bought  
7 the products?

8 A That's one -- yes --

9 Q Okay.

10 A -- I do.

11 Another part of that is you want to  
12 increase your fan base, which is what any front  
13 person would want to do.

14 Q Okay.

15 A Whether I was selling Tristar products or  
16 somebody else's products at the time.

17 Q Okay.

18 A But typically, nobody pays me to do  
19 Facebook.

20 Q Right.

21 A I do it all on my own, and what I choose  
22 to put up is all on my own.

23 Q Okay.

24 A And it's -- a lot of it is out of the  
25 goodness of my heart. I answer a lot of customers

1 literally because I want to help them and make them  
2 feel good about the products that I support because  
3 I think they're all good products.

4 Q Okay.

5 A It's important to me.

6 Q And -- and I didn't understand the answer  
7 about the face man. Are you talking about like  
8 increased celebrity status or exposure when you use  
9 the term "face man"?

10 A I didn't say "face man."

11 Q Sorry.

12 A I don't know what a face man is.

13 Q I don't either. I thought you said that.

14 A I'm a -- they call people -- oh, I think  
15 you mean pitch man.

16 Q Okay.

17 A A pitch man is someone who is the front  
18 person for an infomercial.

19 Q Maybe you said "front man."

20 A Maybe I said "front man."

21 Q Okay. Front man. Okay.

22 A Yeah. I call myself the front man for  
23 Tristar products.

24 Q Understood.

25 A For lack of a better term, but a pitch

1 man, a front man.

2 Q Okay. And so you just want to -- as the  
3 front man, you feel like one of your  
4 responsibilities is to kind of create a buzz about  
5 the products you promote?

6 A I don't know if it's to create a buzz. I  
7 literally do the Facebook to give customers a place  
8 to go engage.

9 Q Okay.

10 A And along the way, if I can increase my  
11 fan base, that's better for me as -- as for what I  
12 do.

13 Q Okay.

14 A I really get no monetary benefit from  
15 Facebook. I can tell you it only costs me money.

16 Q I think I understand.

17 So we've talked about Facebook. We've  
18 talked about the infomercials. What other avenues  
19 do you use to promote the Power Pressure Cooker XL?

20 A Tristar does all the promoting. I really  
21 don't think I do anything to drive sales. I'm more  
22 of the "Hey, I'm here --

23 Q Okay.

24 A -- I'm a real person, and I will help  
25 service you," whether, you know, somebody has



1 trouble with the warranty or they want to know  
2 questions about the product, what they can do, what  
3 they can't do. I'm more of a -- a feel-good figure  
4 on Facebook.

5 Q Sure.

6 A Not -- I don't see that I'm out driving  
7 sales. I'm not --

8 Q I get that.

9 A I wish I could.

10 Q Yeah.

11 A I can't think of a way to do it.

12 Q And I've moved on from Facebook. I'm  
13 looking for --

14 A Oh.

15 Q You know, other than -- so I asked you,  
16 you know, we talked about the infomercials. We  
17 talked about Facebook. What other things do you  
18 engage in to try to increase the sales of the  
19 products that you promote for Tristar?

20 A I really can't think of another thing. I  
21 mean, I've gone to trade shows, talked to buyers.

22 Q Okay.

23 A But --

24 Q I've seen you doing live demonstrations of  
25 the pressure cookers out at -- is it malls or --

1 A Not me.

2 Q No?

3 A No, sir.

4 Q Have you -- have you ever done any -- any  
5 live demonstrations with -- where you interact  
6 with --

7 A Only at trade shows.

8 Q Okay. That's at trade shows.

9 A But, yeah, that's not a direct to  
10 consumer. Buyers go there.

11 Q Okay.

12 A And the one time I did a live  
13 demonstration at a trade show was for a news station  
14 that wanted to do a spot on the Copper Chef, not the  
15 pressure cooker.

16 Q Okay. Have you ever cooked a recipe for  
17 people standing around at a public place, like a  
18 market or a grocery store?

19 A No.

20 Q Okay. All right.

21 Any other actions that you've taken to  
22 help promote sales of the Power Pressure Cooker XL  
23 that we haven't already discussed?

24 A Not that I can think of.

25 Q Okay.

1 MR. EDWARDS: That's all the questions  
2 that I have for now. Thanks.

3 MR. FECZKO: Okay.

4 EXAMINATION BY MR. FECZKO:

5 Q I have some brief follow-up questions,  
6 Mr. Theiss.

7 To begin with, there's been some  
8 discussion of valuation theory and sociology and  
9 consumer expectation. Based on your experience in  
10 working with the Power Pressure Cooker XL, would you  
11 say that it provides value to customers?

12 A Incredible value.

13 Q How does it provide value to purchasers of  
14 the Power Pressure Cooker XL?

15 A People tell me that they cook so much more  
16 because they have the Power Pressure Cooker. It's  
17 so fast and easy to use.

18 People tell me that -- and it's something  
19 that we talk about even live on TV, the fact that  
20 they can use cheaper cuts of meat and cook faster.  
21 A lot of people tell me how -- how many things they  
22 cook for their family they've never cooked before.

23 I get a lot of love on my Facebook page  
24 from the Power Pressure Cooker XL. And the Facebook  
25 pages that were created just independent of us,

1 these people just came together as a group and  
2 created Facebook pages of Power Pressure Cooker XL  
3 customers. I think, to me, that makes me feel great  
4 to know that people love that product as much as I  
5 do, and I think that that's a huge amount of amount  
6 of value, to be able to sit down with your family  
7 and have a home-cooked meal instead of a take-out.

8 Q I understand that you may not be able to  
9 put an exact dollar amount on it. Do you think that  
10 based on your experience with the Power Pressure  
11 Cooker XL you can state that it's not worthless?

12 A No. In my opinion it's definitely not  
13 worthless.

14 MR. FECZKO: That's all I've gone.

15 EXAMINATION BY MR. EDWARDS:

16 Q Assume that the testimony in this case  
17 from the plaintiffs, Ken Chapman and Jason Jackson  
18 and Jessica Vennel, are that they -- since they  
19 received their burn injuries will never use their  
20 pressure cooker again. Do you have any idea whether  
21 or not the pressure cooker is worthless to them? Do  
22 you have any opinions on that at all?

23 A I have no opinion on how they feel about  
24 their pressure cooker at all.

25 Q Okay. Or what value a -- the pressure

1 cooker is to them at all at this point?

2 A I honestly have no opinion.

3 Q Okay.

4 MR. EDWARDS: That's all I have.

5 MR. FECZKO: A couple real quick  
6 questions.

7 EXAMINATION BY MR. FECZKO:

8 Q Regardless of these three individuals that  
9 Mr. Edwards is talking about, do you think that you  
10 could fairly say that the Power Pressure Cooker XL  
11 has provided value to other members of the states of  
12 Pennsylvania, Ohio and Colorado?

13 A Absolutely, a hundred percent.

14 Q Based on what?

15 A Based on the fact that people love using  
16 it. They can cook faster meals for their family.  
17 They can use cheaper cuts of meat. I mean, I know I  
18 sound like a salesperson, but they love the product,  
19 and they use it every single day. All you need to  
20 do is go on the Facebook pages of these people,  
21 independent of me or Tristar, and you will see the  
22 amount of love that -- that people have with their  
23 Power Pressure Cookers.

24 Q And regardless of Mr. Edwards'  
25 representation that they may not -- that his

1 specific clients may not use the Power Pressure  
2 Cookers again, I'll represent to you that every  
3 single one of them was able to successfully cook a  
4 meal without injuring themselves before they  
5 experienced incidents.

6           Based on the fact that they were able to  
7 do so, would you say that each one of them received  
8 some value from their Power Pressure Cooker XLs?

9           A     I think it's safe to assume that they  
10 received some value.

11           MR. FECZKO: No further questions.

12 EXAMINATION BY MR. EDWARDS:

13           Q     How much value would one receive from  
14 using this pressure cooker say two, three, four  
15 times before they were burned by it?

16           A     I really don't know.

17           MR. EDWARDS: No more questions.

18 EXAMINATION BY MR. FECZKO:

19           Q     You might not know, but can you say based  
20 on that that it's not worthless?

21           A     It's definitely not worthless.

22           MR. FECZKO: No further questions.

23           MR. EDWARDS: And no further questions.

24           THE VIDEOGRAPHER: Going off the record.

25 The time is 4:50.

1 (A discussion takes place off the record.)

2 THE VIDEOGRAPHER: We are back on the  
3 record. The time is 4:50.

4 MR. EDWARDS: Just -- just one statement  
5 on the record so there's no confusion. In the event  
6 counsel for the defendants in this case decide not  
7 to bring Mr. Theiss live, we will reserve the right  
8 to play this video and otherwise call this witness  
9 in our case-in-chief should we decide to do so.

10 MR. FECZKO: All right. I'll object based  
11 on the fact that the witness list has already been  
12 put in. You guys have not identified him, but if  
13 you want to take it up with the Court and get  
14 permission, you can do that, obviously. It's up to  
15 you guys to do that and seek that.

16 MR. EDWARDS: Got it. Okay.

17 THE VIDEOGRAPHER: Going off the record.  
18 The time is 4:51.

19 (The deposition concludes at 4:51 p.m.)  
20  
21  
22  
23  
24  
25

## C E R T I F I C A T I O N

I, JANE A. GARBUS, a Certified Court Reporter of the State of New Jersey, do hereby certify that prior to the commencement of the examination, ERIC F. THEISS was duly sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

<%Signature%>

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Certified Court Reporter of the State of New Jersey

Certificate No. XI01648

Dated: July 6, 2017



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